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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1905.

No. 237.

ETER PEARSON AND ENOCH PEARSON, PETITIONERS,

vs.

VILLIAM WILLIAMS, UNITED STATES COMMISSIONER OF IMMIGRATION AT THE PORT OF NEW YORK.

N WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT.

PETITION FOR CERTIORARI FILED APRIL 20, 1905.
CERTIORARI AND RETURN FILED JUNE 1, 1905.

(19,722.)

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JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., DECEMBER 28, 1905.

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a United States Circuit Court of Appeals for the Second Circuit.

WILLIAM WILLIAMS, United States Commissioner of Immigration at the Port of New York, Appellant,

vs.

PETER PEARSON, ENOCH PEARSON and JOHN WAKEFIELD, Appellees.

Transcript of Record.

Appeal From the Circuit Court of the United States for the Southern District of New York.

1 United States Circuit Court, Southern District of New York.

In the Matter of The Application of PETER PEARSON, ENOCH PEARSON and JOHN WAKEFIELD, for a Writ of *Habeas Corpus*.

UNITED STATES OF AMERICA,
Southern District of New York, State and County of New York, ss:

Eugene Treadwell, being duly sworn, says:

That he is associated with Hoadley, Lauterbach & Johnson, the attorneys for the aliens Peter Pearson, Enoch Pearson and John Waketield, and has had charge of their interests in the deportation proceedings heretofore instituted against them under the warrant of the Secretary of the Department of Commerce and Labor, mentioned in the petition for a writ of *habeas corpus*.

That the records disclose that the said aliens came to this port by the Cunard Line steamship "Etruria," and that under the provisions of the law, aliens under deportation proceedings are sent back by the line upon which they came; that the steamship "Campania" of this line is advertised to sail for Europe on Saturday, April 23rd, 1904, and that the said aliens will probably be sent back by that steamship.

EUGENE TREADWELL.

Subscribed and sworn to before me this 20th day of April, 1904.

THOMAS J. SNEE,
Notary Public, Kings County.

[SEAL.]

Certificate filed in New York Co.

2 United States Circuit Court, Southern District of New York.

In the Matter of The Application of PETER PEARSON, ENOCH PEARSON and JOHN WAKEFIELD, for a Writ of *Habeas Corpus*.

To the Honorable the Judges of the Circuit Court of the United States in and for the Southern District of New York:

Your petitioners, Peter Pearson, Enoch Pearson and John Wakefield, respectfully show unto your Honors

I. That your petitioners, and each of them, are now confined at Ellis Island, in said Southern District of New York, in the custody of George B. Cortelyou, Secretary of the Department of Commerce and Labor of the United States of America, and of William Williams, Commissioner of Immigration of the Port of New York.

II. That your petitioners, and each of them, are aliens and subjects of Great Britain, and reside at Gouverneur, County of St. Lawrence, State of New York, and intend to become citizens of the United States.

III. Your petitioners further show, that heretofore, and on or about the 23rd day of March, 1904, your petitioners, and each of them, were arrested at said Town of Gouverneur, County of St. Lawrence, State of New York, by a person, or persons, purporting to be authorized officers of the United States Immigration Depart-
3 ment, and forthwith together taken, against the will of the said petitioners, to said Ellis Island in said Southern District, and there held and detained in the Immigration Building, where they now remain.

IV. That, as your petitioners are informed and believe, immediately after the arrest of your petitioners, counsel on their behalf, upon application to the said Immigration Commissioner, received a letter dated March 23rd, 1904, hereunto annexed and marked "Exhibit 1," which letter contained a printed circular of the Department of Commerce and Labor dated February 5, 1904, hereunto annexed and marked "Exhibit 2," and thereafter, and on March 24, 1904, upon application to the said Commissioner of Immigration at Ellis Island, your petitioners' counsel, E. H. Neary and Eugene Treadwell, under Subdivision "5" of the said printed circular, received from the said Immigration Commissioner, or from counsel in charge and representing the said Department of Commerce and Labor, copy of a warrant issued by Geo. B. Cortelyou, Secretary of the Department of Commerce and Labor, under which your petitioners were arrested; and also of all the evidence upon which it was claimed that the said Secretary had acted in directing said arrest, which said copy of said warrant and evidence is hereunto annexed and marked "Exhibit 3." That the hearing was adjourned until Tuesday, March 29th, 1904, upon which date your petitioners were brought before a Board of Special Inquiry constituted of three persons, in one of the rooms of the Immigration Building wherein your petitioners are confined, and on said 29th day of March, 1904, and on the following day, the 30th day of March, 1904, certain proceedings were had, evidence submitted, and your petitioners examined as witnesses, together with

Joseph S. Lesser, a copy of the stenographer's minutes of said proceedings being hereunto annexed and marked "Exhibit 4"

4 The exhibits referred to in the minutes (Exhibit 4) as offered by the counsel for the Commissioner of Immigration, are set forth in full in "Exhibit 3," except Exhibits "E" and "F," which appear in full at the end of the stenographer's minutes (Exhibit 4). The affidavits put in evidence on behalf of your petitioners, consisting of the affidavits of Joseph S. Lesser and Auberon Stevens (Exhibits C and D), appear in full in "Exhibit 5" hereunto annexed. During the whole of said proceeding your petitioners were in said custody, as aforesaid, and still remain at the present time against their will and consent.

V. Your petitioners further show that, as they are informed by their said counsel and believe, the said Board of Inquiry has recommended the deportation of two of said petitioners, the said Peter Pearson and the said Enoch Pearson, and the discharge of the said John Wakefield, but that the said John Wakefield, one of your petitioners, has not been discharged, and still remains in the said custody against his will and consent.

VI. Your petitioners further show that being, as aforesaid, British subjects, and intending to emigrate to the United States of America, and became citizens thereof, your petitioners took passage in the second cabin of the Cunard steamship "Etruria," leaving the port of Liverpool, England, on or about January 23rd, 1904, and arriving at the Port of New York, in said Southern District, on or about February 1st, 1904; that immediately on leaving said steamship, and while still on the dock of the said Cunard Company in said City of New York, your petitioners were taken into custody by persons purporting to be officials of the Immigration Department, and were forthwith taken to Ellis Island, in said Southern District, and brought before a Board consisting of the same three persons before whom your petitioners were brought and subsequently examined, on

5 the 29th and 30th days of March, 1904, and your petitioners were sworn and examined by the members of the said Board at great length, and in detail. At the close of the said examination your petitioners were discharged. A copy of the stenographer's minutes of the said proceedings, and of the testimony, is contained in "Exhibit 3" heretofore referred to.

VII. Your petitioners further show, as will appear from an inspection of the minutes of the said proceeding (Exhibit 3) held February 1st, 1904, that your petitioners, and each of them, were duly sworn, fully and exhaustively examined upon complaint made as to an alleged violation of the laws of the United States in coming as aliens to the United States, under contract or agreement, parol or special, express or implied, offer, solicitation, promise or agreement, to perform labor or service therein, and more particularly, for or in connection with Joseph S. Lesser or the International Lace Manufacturing Company, of Gouverneur, New York, and that at the close of such examination the decision of the said Board was unanimously in favor of your petitioners, and your petitioners were "unanimously admitted."

VIII. And your petitioners further show that such proceedings before said Board of Special Inquiry was held under and pursuant to the provisions of Sections 24 and 25 of the Act of March 3rd, 1903, and that the decision of said Board is, by law, made final unless appealed from, either by the alien or any dissenting member of said Board, as provided by said Section 25 of said act, and that the decision being in favor of your petitioners, and no member of said Board dissenting, no appeal from said decision was either permitted or, in fact, taken, and that, therefore, the said decision under the express terms of the statute became and was final.

6 IX. Your petitioners further show that neither in the evidence upon which the Commissioner of the Department of Commerce and Labor issued his said warrant for the arrest of your petitioners, nor in the evidence or testimony taken before the Board of Inquiry, pursuant to said warrant, on the 29th and 30th days of March, 1904, copies of all which evidence, testimony and papers have been annexed, and are contained in the Exhibits 3, 4 and 5, appeared, or was even suggested, any other charge or violation of law than the same charge or alleged violation, namely, of coming as aliens to the United States, under contract or agreement, parol or special, express or implied, promise, offer, solicitation or encouragement, with, by, or from the said Joseph S. Lesser or the International Lace Manufacturing Company, of Gouverneur, New York, upon which said charge the previous decision of the said Board of Special Inquiry lawfully constituted and unanimously made in favor of the said aliens, was, by law, final and without review.

X. Your petitioners are informed and believe, that the issuance of the said warrant of arrest by the Secretary of the Department of Commerce and Labor, the subsequent arrest of your petitioners, their detention, examination before said Board of Special Inquiry on said 29th and 30th days of March, 1904, and the continued detention of your petitioners, was and is unlawful, and wholly without authority, and your petitioners state that they did not come to the United States in violation of the Act of March 3rd, 1903, or of any law of the United States relating to the exclusion of aliens; and that said Department of Labor and Commerce, the said Secretary thereof, and the said Commissioner of Immigration of the Port of New York, were, and are, wholly without jurisdiction over your petitioners, and that the said proceedings of arrest, examination and detention of your petitioners was, and is, wholly without authority of

7 law, and that the present detention of your petitioners is wholly unlawful.

XI. Your petitioners further show that they are not, nor is either of them, in custody under or by color of the authority of the United States, except as above set forth, or committed for trial before any court thereof, or in custody for an act done or omitted in pursuance of a law of the United States, or of an order, process or decree of a court or Judge thereof; or in custody in violation of the constitution or of a law or treaty of the United States, or, being a subject or citizen of a foreign state, and domiciled therein, in custody for an act done or omitted under any alleged right, title,

authority, privilege, protection or exemption claimed under the commission, or order, or sanction of any foreign state or under color thereof, the validity and effect whereof depend upon the law of nations; or under the judgment, order, process or decree of any court or Judge of any State of the United States, or under or by color of the authority of any State of the United States, or committed for trial before any court of any State of the United States; and that the sole cause or pretence of your petitioners' imprisonment, according to the best of the knowledge and belief of them, and of each of them, is based upon the facts as hereinbefore alleged and stated.

XII. Your petitioners further say that no prior or other application for a writ of habeas corpus to review said detention and proceeding has been made to any Court or Judge.

Wherefore, your petitioners pray that a writ of *habeas corpus* may forthwith issue directed to George B. Cortelyou, Secretary of the Department of Commerce and Labor, and more particularly to William Williams, Commissioner of Immigration of the Port of New York, commanding him, the said Secretary, and him, the said Commissioner, forthwith to produce the bodies of your petitioners, Peter Pearson, Enoch Pearson and John Wakefield, by them imprisoned and detained, together with the cause of such imprisonment and detention, before this Court or a Judge of the Circuit Court of the United States for the Southern District of New York, so that the cause and detention of your petitioners may be inquired into, to the end that they may be discharged from confinement.

8

Dated April 20th, 1904.

PETER PEARSON,
ENOCH PEARSON,
JOHN WAKEFIELD,
Petitioners.

HOADLY, LAUTERBACH & JOHNSON,
Solicitors for Petitioners.

UNITED STATES OF AMERICA,
Southern District of New York, State and County of New York, ss:

Peter Pearson, Enoch Pearson and John Wakefield, each being duly and severally sworn for himself, says: he is one of the petitioners above named and has read the foregoing petition and knows the contents thereof, and that the same is true to his knowledge, except as to those matters therein stated to be alleged on information and belief, and as to those matters he believes it to be true.

PETER PEARSON,
ENOCH PEARSON,
JOHN WAKEFIELD.

Subscribed and sworn to before me this 20th day of April, 1904.

[NOTARY'S SEAL.] THOMAS J. SNEE,
Notary Public, Kings County.

Cert. filed in New York County.

9

EXHIBIT 1.

No. 22453.

Department of Commerce and Labor, Immigration Service.
Office of the Commissioner, New York, N. Y.

MARCH 23, 1904.

Edward Lauterbach, Esq., 22 William St., New York City.

SIR: Unless you are advised to the contrary, the hearing in the cases of certain aliens who are being brought under warrant of arrest to Ellis Island from Gouverneur, New York, on the charge of having entered the country in violation of the contract labor laws, will occur at Ellis Island on Friday morning, March 25, 1904, upon the arrival of the ferryboat leaving the Barge Office at 11 A. M.

I send you a copy of Bureau Circular No. 8 issued by the Department of Commerce and Labor containing the regulations governing the hearings in cases of this sort.

Respectfully,

WM. WILLIAMS,
Commissioner.

(Enclosure.)
J A M.

10

EXHIBIT 2.

Regulations Governing Warrants—Immigration Service.

Department of Commerce and Labor, Bureau of Immigration, Washington.

Bureau Circular
No. 8.

FEBRUARY 5, 1904.

To All Officers Charged with the Enforcement of the Immigration Laws:

You are hereby directed to conform in future, in making application for warrants for the arrest and deportation of aliens found unlawfully in the United States, to the following regulations:

(1) All such applications must be made, if possible, upon blank forms (No. 1565), which will be furnished upon written request to the Commissioner General of Immigration, Department of Commerce and Labor, and which must be filled out in accordance with the printed lines contained therein, and be accompanied by the certificate of landing, or entry (Form No. 1564), hereinafter prescribed, or if not so accompanied the reasons for the absence of such certificate must be given, and in that case all the facts called for in the blank form of said certificate shall be set forth in the application, so far as the facts are ascertainable.

(2) A full statement must be made in every such application of the facts, supported if practicable by affidavits which show the

resence in the United States of the alien, whose arrest and deporta-
on is sought, to be in violation of law.

(3) The certificate of landing in, or entry into, the United States must contain a complete statement in detail of all the facts disclosed as to any such alien by the manifest or list containing his name, with an attached certificate by the officer in charge of such manifest that the information given agrees in all rticulars with the record of such alien in said list or manifest.

(4) If the circumstances of any particular case necessitate resort request by wire, such request must state that the foregoing regu-ions have been complied with, and that the form of application l certificate hereinbefore mentioned have been forwarded to the partment, and must give the substance of the statement of facts tained in the said application and certificate.

(5) If, upon the receipt of any such application and certificate, of the request by wire provided for in Paragraph 4, either com-ely in conformity with these regulations or accompanied by a sfactory explanation of inability to comply therewith, it appear he Secretary that the alien whose arrest and deportation is sought n the United States unlawfully and that the time within which an be deported has not expired, a warrant for his arrest will be ed directing that he be taken before an officer, or officers, named ein, and there be given full opportunity to show cause, if there ny, why he should not be deported, and as soon as arrested said shall be apprised of his right to be represented by counsel, and nd his counsel shall have the right to inspect all the evidence which the Secretary has acted in directing said alien's arrest, be given an opportunity to offer evidence and submit an argu-t in his behalf, and be given an opportunity to inspect and make y of the report of the hearing and of the findings of the officers e whom it is held. In case said alien is unable to understand speak the English language, an interpreter shall, if possible, be employed at the hearing.

(6) If, after the receipt of the report of such hearing, accompanied by the findings of the officers before whom it eld, it shall appear to the satisfaction of the Secretary from e evidence, that such alien is in the United States in violation and that the time within which he can be deported has not d, a warrant will be issued for his deportation.

Officers are warned that their duties are not of an inquisitorial ; but they are directed to make thorough investigation of all where they are credibly informed, or have reason to believe, specified alien is in the United States in violation of law. It permissible for officers to resort to intimidation by threats or e in order to extort from any suspected alien or from any other the information to be embodied in the application for the t of arrest.

F. P. SARGENT,
Commissioner General.

roved:

GEORGE B. CORTELYOU, *Secretary.*

13 EXHIBIT 3.

Warrant—Arrest of Alien.

United States of America, Department of Commerce and Labor.

No. 43563.

WASHINGTON, *March* 2, 1904.

To William Scarlett and Lewis Jenik, Ellis Island, N. Y. H.:

Whereas, from evidence submitted to me, it appears that Peter Pearson, Enoch Pearson and John Wakefield, aliens who landed at the port of New York, N. Y., on the 1st day of February, 1904, have been found in the United States in violation of the Act of Congress approved March 3, 1903, to wit: Are alien contract laborers, I, George B. Cortelyou, Secretary of Commerce and Labor, by virtue of the power and authority vested in me by the laws of the United States, do hereby command you to take into custody the said Peter Pearson, Enoch Pearson and John Wakefield, aliens, and convey them before the Board of Special Inquiry to enable them to show cause why they should not be deported in conformity with law.

For so doing, this shall be your sufficient warrant.

Witness my hand and seal this 21st day of March, 1904.

(Signed) GEO. B. CORTELYOU,

[SEAL.] *Secretary of Commerce and Labor.*

14 At a Special Inquiry held at Ellis Island, N. Y., Feb. 1, 1904, Present, Messrs. Moler (Chairman), Weihe and Eppler, Inspectors.

FRANK L. GARBARINO, *Secretary.*

Case of Pearson, Peter, 44, m, England, ex s/s "Etruria," Feb. 1, 1904.

bro. do. Enoch, 34, m, C. L. C. "See confidential notice (2nd Cabin) No. 22453, Jan. 21, 1904.

WENRICH, *Inspector.*

Wakefield, John, 27, m, England, ex s/s "Etruria," Feb. 1, 1904.

"With Peter & Enoch Pearson; see confidential notice No. 22453, Jan. 21, 1904. C. L. C.

WENRICH, *Insp.*

Alien (PETER PEARSON), sworn, testified:

Mr. EPPLER: I want to warn you that you are expected to tell the truth here, plainly and simply; any perjury that you may commit here is punishable by a very heavy sentence of imprisonment at hard labor in this country. Any instructions that have been given you as to what statements to make to this Board, since your departure, must be disregarded,—and tell the truth here only.

Q. What is your name?
A. Peter Pearson.
Q. Age?
A. 44 years.
Q. Born in England?
A. Yes.
Q. Are you married?
A. Yes.
Q. Where is your wife?
A. In England. No children.
Q. Can you read and write?
A. Yes.
Q. What is your occupation?
A. Machine fitter, or rather, a machine erector—lace machinery; management of lace machines.
Q. Constructor of lace machines?
A. Not a constructor, a manager. I have invented machines of my own.
Q. Have you ever been in this country before?
A. Yes.
Q. How long?
A. Three months.
Q. How long since?
A. In 1893.
Q. Did you ever take out any papers (citizen) at that time?
A. No.
Q. Who paid your passage?
A. I came with an invention of mine to this country?
Q. I say, who paid your passage to this country?
A. Myself.
Q. Where are you going?
A. Going to stay in New York a day or two, and then we are going to a brother of mine in Wilkesbarre, Pa.
Q. What is your brother's name?
A. Philip.
Q. What is his address?
A. 6 E. Union St., Wilkesbarre.
Q. How long has he been there?
A. Five weeks about, as near as I can say.
Q. Married?
A. Yes.
Q. Wife with him?
A. No.
Q. What does he do?
A. Lace pattern corrector.
Q. Employed there?
A. Yes.
Q. With whom?
A. I could not give you the full title of the firm.
Q. Know what the name of it is, at all? Have you any address?
A. All I know is that the proprietors are Whitman & Coe.

Q. Have you got a ticket to your destination?
A. No.
Q. Have you got any money?
A. Yes.
Q. How much?
A. I have $75.
Q. When did you last hear from your brother?
A. I had only a letter from my brother since he landed in this country.
Q. How long ago since you received that letter?
A. He sailed from England on the 19th of December, and it will be about three weeks after that when I received word of his having landed safely in this country.
16 Q. Did he invite you to come to this country?
A. No.
Q. Have you the letter with you?
A. No.
Q. How long did you intend to stay in Wilkesbarre?
A. I could not say; I couldn't give any definite period.
Q. Where are you from in England?
A. Nottingham; I resided in Beeston Nots for 15 or 16 years.
Q. Have you no address outside that of your brother that you are going to?
A. No.

Mr. MOLER:

Q. What were you doing when in America in '93?
A. I was the inventor of a machine which was known as a reading and punching machine; reading and punching process in the manufacture of lace curtains; I invented this machine and patents were taken out in this country, and the man I worked for sent it over here to make a demonstration, and I came to erect the machine; but there was no demonstration made because the gentleman employing me intended to come to this country, but did not do so, so I went back again; the machine is in this country yet, as far as I know.
Q. What do you propose to do now in America?
A. Get a situation.
Q. As what?
A. My business really is in the pattern department of lace curtain manufacture. I am a lace curtain corrector.
Q. Are you a practical lace curtain weaver?
A. No, but I have had the management of a department which has given me facilities of learning the way of lace making, and am at the present time capable and have managed the machines.
Q. Were you invited by any person to come to this country?
A. Yes, if I said I had not been invited, I'd be telling a lie.

Mr. EPPLER:

Q. Tell the truth, yes or no?
A. Yes.

17 Mr. MOLER:

Q. By whom?
A. A gentleman named Lesser.
Q. Where does he live?
A. I don't know where he lives.
Q. Where did he live when he wrote you letter or invited you?
A. His address is 20 E. 20th St., New York City.
Q. What is his occupation or business?
A. He is a lace manufacturer, or rather, a man that is a lace salesman, as far as I can say.
Q. Did he hold out any inducement or offer you work if you came here?
A. Not particularly offered work; simply that he has got work.
Q. Has he work for you?
A. I could not say positively until I see him; he is here in this country now.
Q. Did he write you a letter inviting you to come here?
A. No.
Q. How did he invite you to come here?
A. He was in Nottingham.
Q. When was he there?
A. Two months ago.
Q. What did he say about your coming to America?
A. Did not make any statement.
Q. He requested you to come, didn't he?
A. I have known Mr. Lesser for a matter of 20 years.
Q. He requested you to come to America, did he or did he not?
A. No.
Q. Did he invite you?
A. Yes.
Q. What did he say he would do for you if you came here?
A. Made no statements.
Q. Promise to secure work for you; to help you secure work ?
A. No.
Q. Have you got any work promised or engaged anywhere in the United States?
A. No.
Q. The character of work you do in the lace business, is it difficult; in a general way, do you consider that you have a regular trade as a lace expert in lace machinery?
A. Yes; my knowledge is, in a sense, special.

18 Q. That is, it is special knowledge of lace making machinery more than it is in actual lace making?
A. Yes.

Mr. WEIHE:

Q. Do you know where any of the lace manufacturing establishments are in the State of New York?
A. There is one at Kingston.
Q. Any other place in New York State?
A. Kingston, as far as I know in New York. There is Wilkesbarre, Philadelphia, Hartford, Conn.

Q. Know whether there is any lace establishment in Gouverneur, N. Y.?

A. Yes, because this Lesser told me that.

Mr. EPPLER:

Q. Is he connected with that concern in any way?

A. Yes, I understand that he is; I don't know whether he is the owner or what he is.

Q. He is connected with the place in Gouverneur?

A. I understand so.

Q. Did he speak of that when you saw him at any time?

A. Nothing particular said.

Q. Did he mention that he was connected with the lace works in Gouverneur when you saw him in England?

A. Another, not himself.

Q. Did any one else tell you that?

A. We knew it by reputation.

Q. What was the understanding at the time you had conversation with Mr. Lesser, as to your coming to this country?

A. No understanding; knowing him the years I have known him; and I myself have been a manufacturer. I was not doing so well in the lace trade as I would like to have done; the lace business is in a poor way in Nottingham, and I had an idea from time to time, as the industry is growing in this country and there are openings for men coming to this country—I came with the idea of getting a situation in this country.

Q. Who came with you?

A. My brother and this young man here (Wakefield).

19 Q. Is he any relation to you?

A. No.

Q. What is his name?

A. John Wakefield.

Q. And for what purpose did you bring him with you?

A. Idea like myself, of getting a situation in this country.

Q. Invite him to come with you?

A. No.

Q. You are under oath now and this Board wants you to state whether or not you or your brother, or your companion, have any promise of work in your line of business from any one, directly or indirectly, in this country?

A. I will state directly, no.

Q. Indirectly?

A. Indirectly, probably I may have an idea that I shall be employed.

Q. By whom?

A. By Mr. Lesser; but no direct promise; only on the strength of my knowledge of him, years of knowledge, his work coming in the firm I had the management of a department.

Q. Any arrangement or understanding as to the compensation you will receive?

A. No; I could not make an arrangement with the man until after employed.

Q. Was it your understanding when you left the other side to come to America with your brother and your friend Wakefield, that you would receive employment with Mr. Lesser at your profession?

A. It was an understanding in this respect, that there was work there to be had.

Q. Was it your understanding that you would work for Mr. Lesser when you came here?

A. If Mr. Lesser will employ me, certainly I will work for him, if I can't get anywhere else.

Q. You understand what I am getting at here. I am asking a direct question,—did you come here with the understanding that you could or would make an arrangement with Mr. Lesser regarding employment in any factory that he was connected with in the lace business?

A. I certainly came here in that faith.

Q. Did Mr. Lesser at any time give you to understand, during your conversation with him, or through any other medium, that when you came to this country, you would receive employment in this factory? According to what your services were worth?

A. He inferred if I came to this country no doubt if I applied to him I would get a situation, but there was no understanding.

Q. Do you have at present any idea of applying anywhere until you see Mr. Lesser?

A. I am on a visit.

Q. You have no idea of applying for employment anywhere until you see Mr. Lesser?

A. Yes, I was going to my brother.

Q. After you had seen your brother?

A. After I see my brother, I would take any situation if I see one suitable for me. I came to work in the lace trade.

Mr. MOLER:

Q. You will take employment wherever you are able to receive it?

A. Certainly.

Mr. WEIHE:

Q. Was it understood between you and Mr. Lesser when you came here?

A. Yes, I am a free agent.

Q. Was it the understanding with you and Mr. Lesser that when you arrived here, he would direct you to go anywhere in the lace trade?

A. He would not direct me, certainly not. Mr. Lesser knows I have been in America, and during the period I was in America I was doing business, as the man that owned the machine did not come over, as explained some time ago, and I waited three months and during that time I was practically free. I went to the Chicago Exposition, Washington, Philadelphia, and several other principal towns, so that I consider that I had an opportunity to see the place and did not consider it necessary for any one to give directions for going around this country.

21 Mr. WEIHE:

Q. Were you employed in England before coming to America?

A. I had a business of my own, but it was slack; and simply because I had a trade, I thought it did not pay.

Alien (ENOCH PEARSON), sworn, testified:

Mr. EPPLER:

Q. What is your name?
A. Enoch Pearson.
Q. What is your age?
A. 34 years.
Q. Born in England?
A. Yes.
Q. Are you married?
A. Yes, wife there and six children.
Q. What is your occupation?
A. Mechanic, sir.
Q. What doing?
A. Lace mechanic.
Q. What, a weaver?
A. Yes.
Q. Ever been in this country?
A. No.

Mr. MOLER:

Q. What kind of a lace weaver?
A. Lace curtain weaver.
Q. Ever here before?
A. No, sir.

Mr. EPPLER:

Q. Who paid your passage?
A. Myself.
Q. And you came with your brother Peter?
A. Yes.
Q. Where are you going?
A. Going to my brother in Wilkesbarre.
Q. After that what are you going to do?
A. I will be with my brother all the while.
Q. Going to remain in Wilkesbarre?
A. I don't know, sir.
Q. With which brother do you intend to remain?
A. This one (Peter).
Q. What induced you to come to America?
A. I was working with my brother Peter in his place, and he asked me to come along with him instead of walking about and doing nothing.

22 Q. Got any money with you?
A. Yes, sir.

Q. How much?
A. £10.
Q. Got a ticket to Wilkesbarre?
A. I haven't got a ticket, I can get it.
Q. Have you any promise of work in this country?
A. No, sir.
Q. What do you intend to do?
A. I will look for a job.

Mr. MOLER:

Q. Ever receive a letter from anybody in this country inviting you to come here?
A. Never.
Q. Have you promise or assurance of work at your trade in this country?
A. No, sir.
Q. Simply come here for the purpose of securing work at your trade, if you can get it?
A. Yes, if I can.

Mr. EPPLER:

Q. Know this Mr. Lesser your brother spoke of?
A. No.
Q. Ever hear from him?
A. No, sir.

Mr. WEIHE:

Q. Any understanding between you and your brother that you would come with him and see Mr. Lesser?
A. No, sir.

Mr. EPPLER:

Q. Or anyone else connected with the lace business?
A. No, sir.

Alien (JOHN WAKEFIELD), sworn, testified:

Mr. EPPLER:

Q. What is your name?
A. John Wakefield.
Q. Your age?
A. 27 years.
Q. Native of England?
A. Yes, sir.
Q. Married?
A. Yes.
Q. Where is your wife?
A. At Nottingham.
Q. Any children?
A. Three.
23 Q. What is your occupation?
A. Lace curtain weaver.

Q. Can you read and write?
A. Yes, sir.
Q. Who paid your passage?
A. Paid it myself, sir.
Q. Where are you going?
A. I don't know; I was travelling with the Pearsons. Mr. Pearson said he was coming to America and I was doing very badly at the time. I saved a few pounds and it looked very much as if the little money I had saved would be spent, and there was lace interests in this country, so I thought I would try my luck here.
Q. How much money have you with you?
A. £5.10. I have more home; did not bring more; see if I would settle down here.
Q. You have no relatives or friends in this country? Except the Pearsons coming with you?
A. No, sir.
Q. No address to go to except with them?
A. No, sir.
Q. What is the prospect as to employment in this country at present?
A. I think pretty fair; better than at Nottingham at all events.
Q. Have you received an invitation from anyone in conjunction with your companions, to come to this country to perform work as a lace weaver?
A. No, sir.
Q. And as you stand here now, have you a promise of employment at your trade anywhere in this country?
A. No, sir.

Mr. MOLER:

Q. What are you, a lace curtain weaver?
A. Yes, sir; I have been pretty well through the trade. Have a general knowledge of the inside of such machinery—a little, but of inside work as well.
Q. Now you state positively on your oath here that you have no arrangement with anyone in this country to secure work for you?
A. No, I have not, sir.

24 Mr. WEIHE:

Q. Did you know Mr. Lesser?
A. No. Never heard of him before.
Q. Ever see him?
A. Never saw him.

Mr. MOLER:

Q. Where are you going from here now?
A. To Wilkesbarre with my companions.

Mr. WEIHE:

I move to admit:

Allen PEARSON recalled:

Mr. EPPLER:

Q. Do you want to stop in New York first?
A. That was my original idea.
Q. For what purpose?
A. For no purpose at all.
Q. What was your object to go to New York?
A. To come to New York is all.
Q. Is it not a fact that you want to go to New York, to 20 E. 20th St., to see Mr. Lesser?
A. It is not a fact that I should do so; I should see my brother first of all.
Q. Then you intend to go to New York?
A. I should go on first landing in this country to see my brother and see how he is getting along, merely out of the spirit of anxiety.
Q. We understand that thoroughly; we appreciate your position, but I want to find out what your intention is in going to New York, whether it is to go to New York first and then to Wilkesbarre, or Wilkesbarre and then to New York?
A. There was no such purpose in my mind at all; I said New York because we came to New York.

Mr. EPPLER: I second motion to admit.
Mr. MOLER: They are admitted.
Aliens unanimously admitted.

25 ELLIS ISLAND, N. Y., *Mch.* 13, '04.

Hon. William Williams, Commissioner of Immigration.

SIR: In obedience to instructions to me in your letter of Mar. 8th I went to Gouverneur, N. Y. After a few hours spent in preliminary inquiry, I found two Americans—Geo. A. Stevens and William Wilson—employed in the lace factory as weavers, and took their affidavits as to all facts in their knowledge pertaining to the circumstances of the employment of foreigners there. Their affidavits are annexed hereto—(1 & 2). The persons particularly referred to in your letter, Peter and Enoch Pearson and John Waketield, I located at the Brooklyn House and interviewed each one privately and in the order named, and their affidavits were taken and are annexed hereto—(3, 4 & 5). A supplementary statement of admission by Peter Pearson at a later time is also annexed hereto—(6).

The affidavit of William Wyld was taken after interview, and is also annexed hereto—(7).

Investigation of charges given currency through the local representative of the American Federation were thoroughly investigated as far as the charges might offer evidence of violation of the contract labor exclusion law, and the representative of the A. F. of L. before mentioned admitted frankly that he had been deceived and that there was nothing in these charges. His name is Patrick Cline. After conversation with the Mr. J. S. Lesser, the President of the International Lace Mfg. Co., I secured two affidavits from him which are hereto annexed—(8 & 9).

A further supplementary statement of admission and allegations by Mr. J. S. Lesser is also annexed hereto—(10).

Pursuing my inquiries in other directions I met one Grant Kaley, whose affidavit is annexed hereto—(11).

26 A long interview with Edwin Roberts elicited a general denial of Kaley's allegation, and I am inclined to discredit Kaley's sworn statement, although if true, and it were possible to substantiate it, the important fact would be clearly established that these men, Wyld and Gane, were expected on the steamer "Campania" by the manager of the lace factory at Gouverneur. I did not ask Roberts for affidavit, but my statement of the facts, admissions and denials obtained from him in the course of an examination and conversation extending over an hour and a half is annexed hereto—(12).

Mr. Lesser's statements to me and the admissions and allegations made by him in his affidavits and subsequent conversation were investigated by me by inquiry among the business people of the town, including Mr. B. F. Brown, Secretary and Manager of the Gouverneur Savings and Loan Association, who had been the active person or promoter through whom most of the stock held by Gouverneur people had been sold.

To sum up the results of the investigation:

As to the suspected importation of Peter and Enoch Pearson and John Wakefield, it seems impossible to avoid the conclusion that an attempt has been made to evade the law. Mr. Lesser's statement that he made no arrangement with these men in his office in New York and that he paid no part of their transportation from Nottingham, England, to Gouverneur, New York, seems to be flatly contradicted by the evidence of the men themselves, who state that their transportation and all expenses from New York to Gouverneur were paid for them by Thompson, Lesser's shipping clerk, who had been in Lesser's employ for fourteen years and was sent with them from New York City to Gouverneur, that Lesser told them in his New York office that there were situations for them each and all at his Gouverneur Lace Factory, and Peter Pearson says positively that his arrangement was made with Mr. Lesser at his New York office

27 to work as Assistant Overseer of the looms at the Gouverneur factory. Mr. Lesser's statement under oath shows that he knew quite clearly in the month of November, 1903, what were the provisions of the Contract Labor Exclusion Law, and his statement of his fruitless efforts to find skilled labor to operate his mill in Gouverneur and his allegation that such skilled labor can be obtained only in England and in Switzerland and not in the United States, seem to be important.

As to Mr. Lesser's charge that representatives of an American branch of the English Chartered Society of Amalgamated Lace Operatives had offered him all the skilled labor he might require to run his mill and his further charge that union men were being brought over to America under contract by and at the expense of these representatives of the Amalgamated Operatives, the statement of William Wyld under oath that he had seen in the Nottingham

Evening Post advertisements for weavers to work at Wilkesbarre, Pa., and Philadelphia, is interesting, and the fact that Englishmen, members of labor unions in England, are sending money to these English unions to pay their dues and keep their "clearance" papers good, would seem to indicate that further investigations along this line are necessary.

It will be noticed that the persons charged by Mr. Lesser with violation of the contract labor exclusion law, are the identical Association from which the confidential advice to the Immigration Department came, and the complaint of the importation of Peter and Enoch Pearson and John Wakefield. I, of course, gave Lesser no information in regard to Department matters except to inform him that all cases coming before Boards of Special Inquiry were looked into and thoroughly investigated.

Respectfully submitted.

WILLIAM SCARLETT,
Immigrant Inspector.

28 STATE OF NEW YORK, *County of St. Lawrence.*

William Wilson, being of full age, being duly sworn, doth depose and say, that he is a native born American citizen and came to Gouverneur, New York, on the 7th day of December, 1903, having applied by letter to the International Lace Co. of Gouverneur, New York, for work as lace weaver, and having received letter in reply offering him work at "Union" prices on piece work; that on or about February 3d, 1904, one Wakefield and another arrived in Gouverneur and were put to work in the lace mill, that he, William Wilson, was at the time temporarily idle on account of his machine having broken down and that on the same day when these men arrived, he, William Wilson, asked the Superintendent, one Stevens, if he could not be put to work, and was told that there was no work for him to do until his machine was fixed; that he then asked Supt. Stevens why he could not be given work same as had been given Wakefield and the other man who were new arrivals, and Supt Stevens told him that the work suggested was not necessary to be done, and that there was nothing for him until his machine was repaired; that he, William Wilson, then suggested that if he were an Englishman some work would be found for him and that Supt. Stevens said nothing and walked away from him. He, William Wilson, also says that he is at present working for the International Lace Co., and that his permanent home is with his mother, Elizabeth Wilson, at Washington Borough, Lancaster Co., Penna.

WM. B. WILSON.

Sworn and subscribed before me this 10th day of March, 1904.

WILLIAM SCARLETT,
Immigrant Inspector.

LETTER WITH EX. No. 2.

Selling Agents, J. S. Lesser & Co., 20, 22, 24 East 20th Street, Near Broadway, New York.

International Lace Manufacturing Co., Gouverneur, N. Y.

DEC. 24th, '03.

Mr. Geo. A. Stevens, 69 West Ave., Patchogue, N. Y.

DEAR SIR: Your letter addressed to the Treas. of our Company, Mr. B. G. Parker, has been handed over to us, and in reply to same wish to state that we pay our weavers union rack prices. We run our looms 24 hours a day on 12 hour shifts. We need good weavers on 7, 8, and 10 Pt. machines.

The town our mill is located in is one of the finest places in New York State, and we are also proud to state that we have the finest Lace Mill in this country.

If you have a family we wish to call your attention to the facilities and advantages a family man has in this town. We have good schools, fine climate, rent is cheap and living expenses in general are cheap. Our workmen live in cottages pleasantly situated and rent same for $7.00 to $10.00 per month. Several of our men who have been living here but a short time are paying for their homes with the rent. The Lace Company is trying to do all they possibly can for their employees to make them comfortable and to have them remain here, as we do not like to make changes, and if you are an attentive sober man, understanding weaving thoroughly, take care of the machine you are given charge of, there will be no question but what you will be well pleased for coming to our town and working for our Co.

If you decide to accept this job, kindly let us know at once, or you can come without any further correspondence. Our New York office is 20 East 20th Street, and you can call there and the Presi-
30 dent of our Company, Mr. J. S. Lesser, will give you any further information you may desire.

Yours very truly,

INTERNATIONAL LACE MFG. CO.
Per M. L.

STATE OF NEW YORK, *County of St. Lawrence.*

George A. Stevens, being of full age, being duly sworn, doth depose and say, that he is a native born American citizen; that in December, 1903, he received from the International Lace Co. a letter which is annexed hereto, offering him employment as lace weaver; that he then called upon Mr. J. S. Lesser, the President of the International Lace Co., at his office, No. 20 E. 20th Street, New York City, and inquired of him what machines were in use and how much money a man could make; that Mr. Lesser informed him that the machines were of the Company's own pattern and that a good man could make from $20 to $25 per week. He, Geo. A. Stevens, further

says that he accepted the offer of employment and reported for work just before New Year's Day, Jan. 1, 1904; that the machines are two makes, "Newton and Picroft" and "Hutton," and are not different from machines he has worked at in other places; that he has not been able to make more than $14 in any one week, and has not averaged over $13 per week; that his permanent home is with his mother, Julia E. Stevens, at 69 West Ave., Patchogue, New York. He also says that on or about February 3d one Wakefield and another arrived in Gouverneur and that they have been given steady work from that time until now. He, Geo. A. Stevens, is now in the employ of the International Lace Co.

GEORGE ALBERT STEVENS.

Sworn and subscribed before me this 10th day of March, 1904.

WILLIAM SCARLETT,
Immigrant Inspector.

31

EXHIBIT No. 3.

STATE OF NEW YORK, *County of St. Lawrence.*

Peter Pearson, being of full age and understanding, being duly sworn, doth depose and say, I am a citizen of Great Britain, forty-four years of age, and came to America by the steamship "Etruria," arriving in New York Feb'y 1st. My statements before the Board of Special Inquiry were true and conscientious in every particular. On leaving Ellis Island I went with my brother Enoch and John Wakefield to get something to eat and then we all went up to see Mr. Lesser at No. 20 E. 20th Str. We looked around the place of Mr. Lesser's and explained the situation to him, and made an arrangement that I should come up to Gouverneur to work as Ass't Overseer of the looms, and my brother and John Wakefield were to apply to the Manager, Mr. Stevens, at the factory at Gouverneur for situations as weavers, Mr. Lesser informing us that there were situations for them in that capacity to be had on application to the manager. We then went to the Continental Hotel on Broadway near 20th Street and stayed there one night. The next day, Tuesday, Feb'y 2d, we spent in looking around New York and attending to transfer of our luggage and left for Gouverneur by the 11.30 P. M. train Tuesday night. We came direct to Gouverneur, but on account of being snow bound took 31 hours on the journey, reaching Gouverneur on Thursday morning, February 4th. We reported at the factory of the International Lace Mfg. Co. and spent the remainder of the day in securing lodgings and getting settled and went to work, in accordance with the understanding with Mr. Lesser, on Friday morning, February 5th, and have been working there since that time continuously. I have no written agreement with Mr. Lesser or the International Lace Mfg. Co. I simply asked Mr. Lesser
2 what chance there would be in his factory for myself and my brother. I was there in business for myself, but contemplated closing out my business as it was unprofitable. I should

have sold out my business anyway independent of any intention of coming to America. I brought sufficient money with me to keep myself and my brother for a time in case we should be unable to find work and to take us back to England. This money is intact as I have never broken into it. I have no relatives in America except my brother who came with me and my brother Phillip who is in Wilkesbarre, Penna. He came to America in December, 1903. In reply to my question asked of Mr. Lesser in October or thereabouts hereinbefore referred to, Mr. Lesser said that if I ever was in America he would be only too pleased to give me a situation if he had one to give.

PETER PEARSON.

Sworn and subscribed to this 10th day of March, 1904, before me
WILLIAM SCARLETT,
Immigrant Inspector.

EXHIBIT No. 4.

STATE OF NEW YORK, *County of St. Lawrence.*

Enoch Pearson, being of full age and understanding, being duly sworn, doth depose and say, I am a citizen of Great Britain, thirty-five years of age, and came to America by the steamship "Etruria," arriving in New York Feb'y 1st. My statements before the Board of Special Inquiry were true in every particular. On leaving Ellis Island I went with my brother, Peter, and John Wakefield to see Mr. Lesser at No. 20 E. 20th Street. That was the first time that I had ever seen Mr. Lesser. I had heard of him as a buyer, but did not know that he was connected with a factory in Amer-
33 ica. My brother had never told me that. Mr. Lesser told me that there was a situation for me in his factory at Gouverneur, N. Y., if I applied to the manager there, Mr. Stevens. This was in answer to my inquiry if there was any chance for me to get a job. My brother Peter had told me who Mr. Lesser was and that he was connected with a lace factory on our way up there from Ellis Island. Until I saw Mr. Lesser it was my intention to go to my brother Phillip at Wilkesbarre, Penna., where I supposed it was my brother Peter's intention to go. I still believe that it was his intention to go to Phillip at Wilkesbarre up to the time when the interview with Mr. Lesser took place, which resulted in our coming directly to Gouverneur. My brother Peter paid my passage. I had been working for Peter for the last nine months. Previous to that for fifteen years I had worked for the Anglo-Scotian Mills of Beeston, England. We all came directly to Gouverneur together, leaving New York on the 11.30 P. M. train on Tuesday night, Feb'y 2d. We were accompanied by a young man from Mr. Lesser's office to show us the way. I do not know his name. We reached Gouverneur on Thursday morning, Feb'y 4th, and went to the Mill, then came to the place where we are now stopping, the Brooklyn House, with a man named Egan who was sent with us from the mill. We reported for work the next morning and have been employed there

continuously since. I have not yet taken out any papers or declared my intention of becoming an American citizen, but it is my intention to do so, regardless of what my brother Peter may do.

ENOCH PEARSON.

Sworn and subscribed to before me this 10th day of March, 1904.

WILLIAM SCARLETT,
Immigrant Inspector.

34 EXHIBIT No. 5.

STATE OF NEW YORK, *County of St. Lawrence.*

John Wakefield, being of full age and understanding, being duly sworn, doth depose and say: I am a citizen of Great Britain, twenty-seven years of age, and came to America by the steamship "Etruria," arriving in New York Feb'y 1st. My statements before the Board of Special Inquiry were true in every particular. On leaving Ellis Island I went with the two brothers, Peter and Enoch Pearson, to see Mr. Lesser, at No. 20 E. 20th Street. I asked Mr. Lesser if there was a chance for a situation for me at his factory as weaver, and he told me "yes," and referred me to his manager, Mr. Stevens. Mr. Lesser sent a young man from his office up to Gouverneur with us. This young man's name was either "Thompson" or "Robinson," I do not clearly remember which. He paid our fares and all expenses to Gouverneur, N. Y. I paid my own passage from England to New York. I do not remember that I had ever seen or heard of Mr. Lesser until I saw him in New York. Certainly I had never received any letters from him. I had heard of the mill of the International Lace Mfg. Co., as a mill just commencing before I left Nottingham, England, as the manager of the mill is a Nottingham man, a Mr. Stevens, and I had often seen the machinery for the mill on its way to America. We all came directly to Gouverneur, and reported at the mill. A weaver named Egan was sent with us to the place where we are now staying, the Brooklyn House. We spent the rest of the day of our arrival getting settled and reported at the mill the next morning for duty and have been employed there continuously since. We three, the two Pearsons and myself, left Nottingham by the same train. I have no relatives in America except several first cousins whose address I have in Philadelphia, but I have never seen them to the best of my knowledge, nor corresponded with them. I have not yet taken out any papers or declared my intention to become an American citizen, but it is my intention to do so. I have a wife and three children in England, and hope to send over for them as soon as I can establish myself.

35

JOHN WAKEFIELD.

Sworn and subscribed to before me this 10th day of March, 1904.

WILLIAM SCARLETT,
Immigrant Inspector.

Statement by William Scarlett, Immigrant Inspector, with Reference to the Second Interview with Peter Pearson.

Noticing that Peter Pearson had not mentioned in his affidavit the man from Lesser's New York office, who had brought him, his brother and John Wakefield to Gouverneur, N. Y., I went back to him a second time and he admitted to me that this man, whose name is Thompson and who is the shipping clerk at the Gouverneur Lace Factory, had paid the transportation and all expenses of the entire party from New York to Gouverneur, N. Y. He also said that Thompson was a Scotchman, and had been in Lesser's employ for about fourteen years.

WILLIAM SCARLETT,
Immigrant Inspector.

March 11th, 1904.
Gouverneur, New York.

36 EXHIBIT No. 7.

STATE OF NEW YORK, *St. Lawrence Co.:*

William Wyld, of full age and understanding, being duly sworn, doth depose and say:

I left England by steamship "Campania," arriving in New York Feb'y 20th. I was accompanied by a friend by name Wm. Gane, a former shopmate and particular friend. We each paid our own passage. We came by second cabin and were discharged at the Cunard dock by the inspector. On the ship with us was Mrs. Roberts and child whom we afterward learned were the family of Edwin Roberts, whom we knew was working for some lace factory in the States. Mr. Roberts was on the Cunard Pier to meet his wife and child and spoke to us and gave us Mr. Lesser's address. We called at Mr. Lesser's address, but did not find him in and then continued our journey to Albany, where we spent two days visiting my mother, brothers and sister and my son. My son has been in this country for two years, and the other Albany relatives have been in America for upwards of twenty-five years. My father, who is now dead, was a naturalized American citizen. I am forty-two years of age and have never been in America before. I have been a weaver since I was eighteen years of age, and for five years before was in the fitting shop. I paid my own fare to Gouverneur, N. Y., and applied for work at the Lace Mills and was given work nights as overseer of weavers at $15 the first week, with promise of higher pay the subsequent weeks. I expect to get twenty dollars this week. I have no written contract as yet, but expect one, as it is customary. I am now merely on my trial. I have known of Mr. Lesser in the old country as a large buyer of lace goods. I have seen his name published in English newspapers as one of the large buyers for American trade.

37 I have never seen any advertisements for help wanted as weavers by the International Lace Mfg. Co., but have seen

such advertisements in the Nottingham Evening Post for weavers to work at Wilkesbarre, Pa., and Philadelphia, Pa. These advertisements appeared in the summer of 1903 and applicants were directed to apply to a certain box, Evening Post Office. I am not only a weaver but a machinist as well, and able to repair machines that upset, that is, to readjust them. I have a wife and three daughters and a son unmarried in my family at Beeston, England.

Wm. Gane, my friend before mentioned, came with me to Gouverneur and applied for work as weaver and was given work and is working nights one week and days the next week in the factory of the International Lace Mfg. Co.

WILLIAM WYLD.

Sworn and subscribed to before me this 11th day of March, 1904.

WILLIAM SCARLETT,
Immigrant Inspector.

38 STATE OF NEW YORK, *County of St. Lawrence:*

Joseph S. Lesser, of full age and understanding, being duly sworn, doth depose and say, I am forty-nine years of age, a naturalized American citizen, and with my brother, Morris Lesser, have been in business as importing merchants for upwards of twenty years, having a shipping office in Nottingham, England, and a store and office in New York City.

In August, 1902, the International Lace Mfg. Co. was formed by myself and my brother Morris, in connection with many of the most prominent citizens of Gouverneur, and other persons in different parts of the United States, and the factory was built in Gouverneur capable of employing one thousand hands.

In May, 1903, operations in the manufacture of lace were commenced with the employment of local help and some experienced hands from Boston and a skillful machinist, named A. Stevens, who had formerly been employed in a lace mill in Wilkesbarre, but had returned to England. Mr. Stevens, knowing that I was buying machinery, for the Gouverneur Mill, in Nottingham, came to my New York office and applied for a situation. He satisfied me that he was the proper person to put the Gouverneur mill in operation, and I engaged him to come to Gouverneur for that purpose. I had had various conversations with him in England, but had made no engagement with him. I had only asked his advice and sought information from him on the subject of machines which I was about to order.

We have advertised extensively for skilled help, in the newspapers in the United States circulating in cities where such persons would be likely to be found and have been able to secure but very few,
and we have now over $50,000 worth of machinery idle in
39 the factory for want of skilled labor which we are unable to
obtain in the United States. We have never advertised for help in English papers or in any way have advertised for help in any foreign country. The shipping office in Nottingham which has been maintained by my brother and myself for years is being wound

up and is to be abandoned in the near future. No one there has ever had any authority to represent us except for the purpose of making out invoices for goods exported to the United States.

I have been accustomed to spend three months in England every summer and three months also every winter during the buying season for the past twenty-five years.

I have known Peter Pearson for a good many years as a skillful machinist, as an inventor of special machinery and as a manufacturer of laces on his own account. He came to see me at my office in Nottingham, England, at various times in October, November and December, 1903, and asked me what were the chances in America. He stated that he intended to close out his business as it was unprofitable and asked my advice. I advised him as a friend that there were good prospects in America and that he could certainly do well. I made no arrangements with him, and later heard that someone named Pearson had come to America and gone to Wilkesbarre. I supposed that this man was Peter Pearson until months afterwards, when Peter Pearson came to my New York office. I was very much surprised to see him as I thought he was in Wilkesbarre. He told me that was his brother, and that he had had word from his brother in Wilkesbarre of the advantages in America and he decided to come. I persuaded him to come and see our place at Gouverneur, and take his two friends with him. I had never seen them before, but Mr. Pearson introduced them, one as a brother and the other as a friend. They said that they also came to this country to better themselves, as the old country was no good since the Americans are not buying there. They told me that they were going to Wilkesbarre, but I persuaded them to go to Gouverneur first, as we wanted help in the mill, and I knew if they went to Wilkesbarre first, we should never see them. Naturally, I did that for my own interest. I made no arrangements with them in New York whatever, but they came to Gouverneur, and applied at the mill, my brother being in charge, and they were given work by the men who were in charge of the departments where they could be used and they are now employed here. I advanced them no money and paid no part of their passage money or transportation from Nottingham to Gouverneur. There has been no written agreement with them and they are simply employed from week to week. We have the right to discharge them and they to leave our employment at the end of any week. With reference to Wm. Wyld, who recently came here to work, I never saw or knew the man until he landed in Gouverneur, but I am informed that while he recently came from England he did not come direct to Gouverneur, but came here from Albany where he had a son.

JOSEPH S. LESSER.

Sworn and subscribed to before me this 11th day of March, 1904.

WILLIAM SCARLETT,
Immigrant Inspector.

41 EXHIBIT No. 9.

STATE OF NEW YORK, *County of St. Lawrence:*

Joseph S. Lesser, of full age and understanding, being duly sworn, doth depose and say: I am forty-nine years of age and have been in the Lace business for over twenty years as an Importing Merchant, having a shipping office in Nottingham, England, and a store and office in New York at 20 East 20th St. It has been my custom to spend alternately about three months in England and the same length of time in the United States.

On a certain occasion in or about the month of November, 1903, I was approached by two men in my office in England, who asked me for work in America and an advance of money to pay their passage. I stated to them that it was impossible for me to do so as the Contract Labor Exclusion Law made it illegal to make a contract in a foreign country for services to be performed in the United States, or to advance any money to assist immigrants to come over under an agreement that work was to be performed.

They informed me that the Lace Makers Union in Philadelphia and Wilkesbarre were advancing the money to bring over union men under the agreement that they would work only where the union directed, and repay the union the money advanced. The names of these men I do not know at present, but may obtain them.

I refused to entertain their proposition knowing that it would be a violation of the law, although I needed help at the time. I told them that if they would come over to America they would no doubt find plenty of work, but they said that they had no money and the interview terminated.

JOSEPH S. LESSER.

Sworn and subscribed to before me this 11th day of March, 1904.

WILLIAM SCARLETT,
Immigrant Inspector.

42 *Statement by William Scarlett, Immigrant Inspector, with Reference to Conversation with Mr. J. S. Lesser.*

Having taken Mr. Lesser's affidavit, he and I had some further conversation, in the course of which he said that the President and Secretary of the Amalgamated Society of Lace Operatives from Philadelphia, Pa., had called upon him at his office in New York City and had offered to furnish him with all the skilled labor he needed, provided he would sign an agreement with them to make his factory a union shop. He alleged that the American Society is only a branch of the English Society to whose officers they are entirely subservient, and that this English society is directly importing contract laborers into America under ironclad contract. He further explained that if he were to accept the offer of this Amalgamated Society he would have to discharge the local help employed

in his factory, as the rules of the union limit the number of apprentices which may learn in a union shop, that he pays union wages, that the business is of very recent establishment in this country and that there are several other plants not yet in full operation in the United States besides the Gouverneur establishment, who must have skilled laborers in large numbers, and such can only be obtained in England or Switzerland and not in the United States. After this conversation Mr. Lesser, at my request, showed me through his factory.

WILLIAM SCARLETT,
Immigrant Inspector.

Gouverneur, New York, March 11, 1904.

43 STATE OF NEW YORK, *County of St. Lawrence:*

Grant Kaley, of full age and understanding, being duly sworn, doth depose and say:

I am 32 years of age, married, native born American citizen and am working for the International Lace Mfg. Company in their mill at Gouverneur as a weaver. About three weeks ago, one evening at Nickerson's boarding house on Main St., I was talking with one Edwin Roberts, a machinist employed by the International Lace Manufacturing Co., and he told me that he was going down to New York to meet his wife and child who were coming from England and that Mr. Lesser had asked him to meet two men who were coming on the same boat with his wife from England. When Roberts returned with his wife and child to Gouverneur, I asked him where the two men were, and he said they stopped over at Albany for a few days.

GRANT KALEY.

Sworn and subscribed to before me this 11th day of March, 1904.
WILLIAM SCARLETT,
Immigrant Inspector.

Statement by William Scarlett, Immigrant Inspector, with Reference to an Interview with Edwin Roberts.

On Friday evening, March 11th, I called at the home of Edwin Roberts, and questioned him regarding several matters pertaining to the employment of foreigners in the factory of the International Lace Manfg. Co., and learned from him the following facts: That he is employed as machinist in the factory of above-named company at Gouverneur, N. Y.; that he came from England about Nov. 19, 1903, and secured work at the factory before mentioned; that
44 no contract was made with him in England, and he has no written contract with the company, but thinks he could find work elsewhere in the United States should he lose his job here as he is an all round practical machinist. Expecting his wife and baby from England on the steamship "Campania" on or about February

20th, he went down to New York City to meet them; that he paid his own and his famliy's expenses and the trip cost him about thirty dollars; that the manager of the factory objected to his going down to New York to meet his family, telling him that his time could not be spared and that Mr. Lesser or some one from Mr. Lesser's New York office would meet Mrs. Roberts and child and see them safely on board the train for Gouverneur. He denied that he expected to meet anyone except his wife and child, but said that before he saw his wife he recognized two men a long distance away on the Cunard pier by their peculiar neck dress as being from Nottingham or that part of England that he had come from. Approaching them he found that they were William Wyld and William Gane, and my recollection is that he said he "took them" to Mr. Lesser's office. They did not leave New York by the same train that brought him and his wife and baby to Gouverneur. When he came to this country he got his "clearance papers" from the English union to which he belongs and he now remits money to this English labor union to "keep his clearance good," at regular intervals. I did not go into this to learn just what he meant. He said he intended to inquire if there was not some one in America he could pay the money to and save the expense of sending the money across to England. Roberts talked with apparent candor. I did not ask him to make any affidavit as I did not think it important and the hour was growing late.

WILLIAM SCARLETT,
Immigrant Inspector.

Gouverneur, New York, March 11, 1904.

45 First Board.

EXHIBIT 4.

At a Special Inquiry held at Ellis Island, New York, March 29th, 1904. Present: Messrs. Moler (Chairman), Weihe and Eppler, Inspectors. Also present, Mr. Paddock, Attorney for the Commissioner of Immigration, and Messrs. Neary and Treadwell, Attorneys for Peter Pearson, Enoch Pearson and John Wakefield, brought before the Board on Warrant of Arrest.

Hearing commenced at 11:45 A. M. Geo. S. Curry, Secretary.

Mr. PADDOCK: I desire to offer in evidence this warrant (as follows):

Warrant—Arrest of Alien.

United States of America, Department of Commerce and Labor.

No. 43563.

WASHINGTON, *March* 21, 1904.

To William Scarlett and Lewis Jenik, Ellis Island, N. Y. H.:

Whereas, from evidence submitted to me, it appears that Peter Pearson, Enoch Pearson and John Wakefield, aliens who landed at the port of New York, N. Y., on the first day of February, 1904, have been found in the United States in violation of the Act of Congress approved March 3rd, 1903, to wit: Are alien contract laborers, I, George B. Cortelyou, Secretary of Commerce and Labor, by virtue of the power and authority vested in me by the laws of the United States, do hereby command you to take into custody the said Peter Pearson, Enoch Pearson and John Wakefield, aliens, and convey them before the Board of Special Inquiry to enable them to show cause why they should not be deported in conformity with law.

46 For so doing, this shall be your sufficient warrant.

Witness my hand and seal this 21st day of March, 1904.

(Signed) GEORGE B. CORTELYOU,

[SEAL.] *Secretary of Commerce and Labor.*

M. S. L.

I also desire to offer in evidence the papers upon which this warrant was issued: Letter addressed to William Williams, Commissioner of Immigration by William Scarlett, Immigrant Inspector, dated March 13, 1904, together with certain Exhibits thereto attached and numbered 1 to 12 inclusive.

Letter as above put in evidence and marked Exhibit A.

Exhibit No. 1. Affidavit of William B. Wilson, verified March 10, 1904.

Exhibit No. 2. Affidavit of George Albert Stephens, verified March 10, 1904, with letter attached.

Exhibit No. 3. Affidavit of Peter Pearson, verified March 10, 1904.

Exhibit No. 4. Affidavit of Enoch Pearson, verified March 10, 1904.

Exhibit No. 5. Affidavit of John Wakefield, verified March 10, 1904.

Exhibit No. 6. Statement of William Scarlett, dated March 11, 1904.

Exhibit No. 7. Affidavit of William Wyld, verified March 11, 1904.

Exhibit No. 8. Affidavit of Joseph S. Lesser, verified March 11, 1904.

Exhibit No. 9. Affidavit of Joseph S. Lesser, verified March 11, 1904.

47 Exhibit No. 10. Statement of William Scarlett, in reference to conversation with Mr. J. S. Lesser, dated March 11, 1904.

Exhibit No. 11. Affidavit of Grant Kaley, verified March 11, 1904.

Exhibit No. 12. Statement of William Scarlett, with reference to interview with Edwin Roberts, verified March 11, 1904.

Exhibit B. Minutes of previous hearing of this particular case, on February 1, 1904.

Mr. PADDOCK: The evidence submitted to the Secretary is deemed sufficient to warrant him in issuing this warrant for the arrest of these aliens. This warrant directs that the aliens be given an opportunity to show why they should not be deported, and so you now have this opportunity.

Mr. TREADWELL: We have received a copy of these affidavits, and finding, especially from the statements of the Special Inspector, that he drew certain inferences from some of these affidavits, and so advised the Secretary to issue the warrant, we feel it is proper and incumbent upon us to set before this Board the exact facts in regard to these matters, so that the Board may have, not merely the inferences of the Special Inspector Scarlett, but may have the facts and judge for themselves. For that purpose we offer the affidavit of Auberon Stevens, verified March 26, 1904, Head Machinist at the Factory at Gouverneur, New York, and we also offer the affidavit of Joseph S. Lesser, verified March 24, 1904.

48 These affidavits were put in evidence and marked:

Exhibit C. Affidavit of Auberon Stevens, verified March 26, 1904.

Exhibit D. Affidavit of Joseph S. Lesser, verified March 28, 1904.

Mr. TREADWELL: We submit these affidavits and we will produce the original affiants, if desired by the Board.

Mr. MOLER: For what purpose do you introduce the affidavit of Stevens?

Mr. TREADWELL: In two of the affidavits submitted by the Government, one by George Stevens, and the other by one William B Wilson, which affidavits were procured by the Special Inspector, and are attached to the papers upon which the Secretary issued the warrant, and which we now believe are material evidence in that respect, there is a statement made by Mr. Wilson, to the effect that he was laid off and was not employed at or about the time when these aliens appeared on the scene and got employment. We judge if there was any materiality in that affidavit it was to show that resident laborers—workmen were being put aside for the new people, and we wish to show Mr. Wilson was laid off, and our affidavit is simply to show that his machine was broken, and that the rule of these lace factories is that a man who is employed on a lace machine has charge of that machine, and when his machine is broken he lays off.

That is all that we have to offer in evidence.

Mr. PADDOCK: The Board has before it the minutes of the last meeting and these various affidavits, and if they wish to examine

these aliens further regarding any matters, of course they
49 are at liberty to do so, even if their own attorney does not call them as witnesses on their own behalf.

Mr. MOLER: Then you do not desire to call these aliens?

Mr. TREADWELL: I believe from their testimony given before you, and which has been put in by the Government, and on their affidavits, that there is a complete answer to any ground for their deportation, and I do not feel that there is any further necessity, especially as your Board examined these gentlemen so fully at the previous hearing. I take it for granted that their testimony was true and you believed it. I suppose it was true, and certainly, gentlemen, I do not propose to go back of your decision.

Recess for lunch from 12:35 to 1:30 P. M.

Mr. NEARY: We think it best to examine them here before you, we will ask them some questions, and you can examine them as you desire. We have sent a telegram to Mr. Lesser to come over also and submit to an examination before the Board in this case.

Mr. PADDOCK: The Board have seen Mr. Lesser's affidavits, and might consider whether they wish to have the attorneys for the aliens call Mr. Lesser as a witness.

Mr. MOLER: I think perhaps as to whether or not the Board deems it proper to question Mr. Lesser in the matter can be determined better after the aliens have been taken, and we can see what position we are in.

Alien JOHN WAKEFIELD, being duly sworn, testified as follows:

Mr. EPPLER: Mr. Chairman, I submit that during the examination of Mr. Wakefield the other two aliens be sent into the other room.

50 (There being no objection to this the other two aliens were accordingly taken out of the room.)

Mr. NEARY:

Q. You are the John Wakefield named in these proceedings?
A. Yes, sir.
Q. Your occupation was what before you came to this country?
A. Weaver, as you call it in this country.
Q. Did you come to this country under any contract for labor, or laboring?
A. No, I have not. I did not come under any contract, I may say.
Q. Did you know Mr. Lesser when you were in Europe?
A. No, I never seen him before in my life until I got to New York.
Q. Did you ever have any talk with him or with anybody in his behalf about working for him in this country, if you came here?
A. No.
Q. What induced you to come to the United States?
A. Well, I was doing badly in England, and knowing that there was a lot of machinery coming to this country, I thought that I

would try to retrieve my fortune here. I thought that there would be plenty of chance of getting a situation here, and I think so now. Plenty of chance. At least I know it now, and I only thought so before, but I know it now.

Mr. MOLER:

Q. What is that?
A. Before I came here I only thought there was plenty of chance, now I know it.

Mr. NEARY:

Q. Is it your intention to remain in the United States and become a citizen?
A. Yes, it is.
Q. You have a family in England?
A. I have three children and a wife.
Q. Did you have any money with you when you came here?
A. Yes, I have $27 or $30, at least I had that sum when I landed here.
51 Q. You have earned some since?
A. Yes, and spent some.
Q. Do you intend to bring your family over here as soon as you can make arrangements?
A. As soon as I can make it convenient. That of course will take some time before I get settled down here.

Mr. TREADWELL:

Q. Who paid your passage to this country?
A. I paid it myself, sir.
Q. Any agreement that you should have it paid back to you?
A. There could not be any agreement, because I did not know where I was going.
Q. As a matter of fact there was no agreement?
A. No.

That is all.

Mr. PADDOCK:

Q. Mr. Wakefield, do you know Peter Pearson?
A. Yes, sir.
Q. How long have you know him?
A. Well, I could not say. More since I have come to the United States than I did in England. I saw him at the pier when I first came aboard of the ship.

Mr. EPPLER:

Q. How long have you known him?
A. Two or three years.

Mr. PADDOCK:

Q. Two or three years?
A. Yes.

Q. Were you employed in the same place, did you say?
A. No.
Q. You talked with Mr. Pearson several times before you left, about your proposed trip to America, didn't you?
A. Well, we may have spoken about it in a casual way. I could not recollect so.

Mr. EPPLER:

Q. Can you answer the question, yes or no?
A. No.
52 Q. Prior to your coming to this country, your embarkation, did you ever have any conversation with Mr. Pearson in regard to coming to this country?
A. Yes, I did.

Mr. PADDOCK:

Q. You knew at that time that Mr. Pearson was coming, didn't you?
A. I cannot say that; no. I did not know.
Q. Do you recollect when this conversation took place?
A. No.
Q. Had you a conversation with Peter Pearson or any other person regarding a position in the United States, or communicate with any person?
A. No. I did not communicate with any person.
Q. When did you first learn that Peter Pearson was coming to the United States?
A. Well, when I got to Liverpool to come here.
Q. Didn't you know that he was coming before that?
A. No, I don't know, I don't think so, I cannot answer that question directly; I don't think so.
Q. Did you live in the same town with him?
A. Yes, within two or three miles.
Q. You had known him for two or three years?
A. Yes.
Q. Do you mean to say that you never told him it was your intention to come to the United States before you met him in Liverpool?
A. Possibly, I might have told him. It has been my intention to come to the United States for a couple of years.
Q. Didn't you ever talk with him regarding a position in this country, before you met him in Liverpool?
A. I do not quite understand what you mean by a "position."
Q. Employment?
A. No, I never talked with him about that.
Q. Well, what did you say to him when you told him of your intention of coming to America?
A. Well, I was speaking in this way. I was doing very bad,
53 and I think there is a chance in America, and it is about time that I have shifted, which I have said dozens of times.
Q. What did he say to you in reply to that?

A. I believe he thought about the same as I did, that it was about time to shift.

Q. Didn't he tell you that he knew where you could get employment in the United States?

A. No, no. Not so far as I can recollect, at all events.

Q. You might have forgotten it?

A. No, I don't think so.

Q. Have you ever seen in papers in Nottingham, England, advertisements, advertisements regarding employment in America?

A. Well, I saw one.

Q. What was that?

A. It was an advertisement notifying that Doctor Dows was at a certain hotel receiving applications for America, for twist hands. That is the only advertisement that I have seen.

Mr. MOLER:

Q. When was that advertisement?

A. Possibly four years ago.

Q. Have you ever seen any advertisement since that in any Nottingham papers, in regard to lace weavers coming to America, or in any other papers in England?

A. No, sir, I have not.

Q. When you arrived in New York where did you propose to go?

A. Well, we all proposed to go to Wilkesbarre. The Pearsons did.

Q. Where did you propose to go yourself?

A. I did not propose to go anywhere, only with my companions.

Q. Wanted to go wherever they went?

A. Yes, sir.

Q. You understood from them that they were going to Wilkesbarre, Penna.?

A. Yes.

Q. Did you go to Wilkesbarre?

A. No, we did not.

Q. Did not go—then when you came here you had no destination, had you?

A. I did not.

Q. Not even to go to Wilkesbarre?

A. Not even that.

Q. You were subject to change of mind at any time?

A. Yes.

Q. Did you ever have any conversation with Mr. Pearson, Mr. Peter Pearson, in regard to where he was going?

A. Yes, on the way.

Q. You had conversation with him?

A. Yes.

Q. Did you on the way over, or before you left your home in England, have conversation with him in regard to where he was going?

A. On the way.

Q. On the way over?

A. Yes.

Q. Where did he state that he was going?
A. To Wilkesbarre.
Q. Why did Peter Pearson want to go to Wilkesbarre?
A. To see his brother; he had a brother there.

Mr. PADDOCK:

Q. Do you know a man by the name of A. Lowe in Nottingham?
A. No, I cannot say that I do.
Q. How long have you lived in Nottingham before you left to come here?
A. About 27 years, all my life.
Q. Never heard of Mr. Lesser?
A. No, I never heard of Mr. Lesser.
Q. Did you ever hear of the International Lace Company before you came here?
A. I have not heard of it. I have seen the name several times, of course.
Q. That was before you left?
A. Yes.
Q. Do you know who managed that business?
A. No, I did not. I never inquired.
Q. Will you swear that it was your intention to go to Wilkesbarre when you came here?
A. Yes.
Q. Why did you wish to go there?
A. Because there was lace machines there.
Q. How did you know that?
A. Well, because everybody in the lace trade knows that.
Q. You never saw any advertisement in the Nottingham papers regarding employment in Wilkesbarre?
A. I have seen no advertisement of that kind.
55 Q. When did you change your mind and decide not to go to Wilkesbarre?
A. Well, now I cannot say. I might say after my companions had seen Mr. Lesser at his office.
Q. Did you know that your companions were going to see Mr. Lesser upon their arrival here?
A. No, I did not, not until they arrived here.
Q. Did you know that Mr. Peter Pearson knew Mr. Lesser?
A. I cannot say that I knew that.
Q. Or that he knew anyone in the employ of the International Lace Company?
A. Well, not to my knowledge; of course he might, but not to my knowledge.
Q. Never heard him speak of the International Lace Company?
A. No.
Q. Or Mr. Lesser?
A. No.
Q. Did he ever talk to you about the employment that he was going to take in this country?
A. No, he never said that he had anyone to go to.

Mr. EPPLER:

Q. You say that you knew Mr. Peter Pearson for two or three years?
A. Yes, sir. We will say two or three years.
Q. Was it more than two years?
A. It might have been.
Q. Was it three years?
A. Well, I won't answer that question, because I do not believe that I could tell the truth about it; I could not tell you how long that I have known him.
Q. Is it more than three years?
A. It might have been four years.
Q. Could it be five?
A. It would not be five.
Q. But it may be four?
A. It might very well be four, we will say four.
Q. Did you know Mr. Pearson in 1900?
A. This is 1904; well, yes, towards the last of the year.
Q. Toward the latter end?
A. Yes, sir.
Q. What were you doing then?
A. Weaver.
Q. What was he doing at that time?
A. He was making patterns for the trade, that is how I knew him.
56 Q. By whom were you employed at that time?
A. W. E. Dobson.
Q. How long were you there?
A. From thirteen years of age.
Q. Continuously employed there until when?
A. Until two or three months before Christmas of last year.
Q. In the first of 1901, or in 1900, where was Mr. Pearson working when you knew him?
A. He had an establishment, I could not tell you where it was. He brought patterns around to the trade, and he put some on the machine that I was using.
Q. How frequently did you see him?
A. Perhaps once in six months.
Q. Then he was in business for himself during the whole of your acquaintance with him until the time that you left your employer?
A. Yes.
Q. For himself?
A. Yes, sir.
Q. You never worked for him at all?
A. No.
Q. How frequently did you see him in the last year?
A. Not more than about once in six months.
Q. When was the last time that you saw him while you were employed?
A. I think it was not quite six months, it might be perhaps three months; we will say three months before I came here.

Q. Before you sailed?
A. Yes.
Q. That was the last time you saw him until you met him on the ship?
A. Yes, sir.
Q. Have you had any conversation with him or any correspondence with him?
A. Never wrote to him in my life.
Q. Had you had any intercourse, indirect or direct, through a third person or by letter?
A. No, sir.
Q. When did you sail?
A. Sail? On January 23rd.
Q. This was three months prior to your sailing?
A. Yes.
Q. That would be in the month of October?
A. Yes.
57 Q. That you saw him?
A. Yes. I cannot say that it was in the month of October when I saw him; it might be; I should say that it was about three months before.
Q. All right. Tell us what occurred at that interview that you had with Mr. Pearson?
A. Well, I cannot say that anything particular occurred. I might have remarked, the same as I have done before, about the work, about being short of work. At that time we were very short of work, and I had had a two months' holiday about that time.
Q. Was that said before this holiday began, this conversation that you had with Mr. ——?
A. The general conversation?
Q. You have just referred to a holiday of two months?
A. Yes.
Q. Was that conversation that you had with Mr. Pearson at the beginning of that holiday?
A. Yes.
Q. You were still employed?
—. ——.
Q. Did Mr. Pearson state to you at that time that he had the intention of coming to the United States?
A. Yes, I believe that he did. Yes, he did.
Q. He did?
A. Yes.
Q. Did he tell you also that his brother was going with him to the United States?
A. No, he did not.
Q. He told you that he had concluded to come?
A. Yes.
Q. Did he invite you to join him in coming to the United States?
A. No, that was left an open question to please myself. He did not ask me to come.
Q. Did he speak of it to you?
A. No.

Q. Did you speak of it to him?
A. I might have done so.
Q. All right, but do you know, you ought to remember?
A. Well, I cannot remember, I cannot remember that.
Q. You won't swear that you did not?
A. No, I won't.
58 Q. But at that interview when he told you that he intended to come to this country, did you communicate to him that you might possibly come to the United States also?
A. No.
Q. Was it your intention then to remain in England?
A. As far as I knew Mr. Pearson was—it was not my intention to remain. I had not made up my mind.
Q. You say then you had not made up your mind?
A. No.
Q. Before you had this conversation with Mr. Pearson in which he told you that he was coming?
A. Yes.
Q. How long after this conversation with Mr. Pearson did you leave your employment?
A. How long after?
Q. Yes, how long after?
A. I did not leave it at all.
Q. How long after this conversation with Mr. Pearson did your connection with your employers terminate?
A. It terminated the week that I sailed here.
Q. The week that you sailed?
A. Yes, sir.
Q. But you just said a moment ago that you had a holiday of two months?
A. But my position was there, only I had nothing to do, the machine was standing.
Q. Then you were simply laid off temporarily?
A. Yes, sir.
Q. When did you see Mr. Pearson prior to this conversation that you speak of now?
A. I could not tell you that. It was a long while.
Q. Give us some idea?
A. Well, I used to see him on the average of once in six months. It might have been six months.
Q. That was the last personal interview that you had with Mr. Pearson; you had nothing further, and you did not see him again until after you sailed?
A. That is so.
Q. When did you see him again?
A. On the ship at Liverpool.
59 Q. On the ship at Liverpool?
A. Yes, sir.
Q. Now, how do you account for the fact that you and Mr. Pearson both came over here together in the same ship, at the same time,

and visited Mr. Lesser at the same time, unless you had some prior understanding?

A. I would call that a coincidence. There is nothing else that I know of to call it. Of course it may seem strange, but our ways met, but I met him on the ship, and that is the reason that we were to Mr. Lesser's together. A coincidence, that is what I would call it.

Q. How long prior to your sailing did you engage passage?

A. A week prior.

Q. Where did you buy your tickets?

A. In London; I wrote for them myself.

Q. Had you ascertained from any one, from any agent or any one else that Mr. Pearson was going on that ship?

A. No, I never asked that.

Q. Had no knowledge of it at the time that you engaged your passage?

A. No, I had not.

Q. You claim that it was a mere coincidence that you and Mr. Pearson and his brother came on the same ship to this country, went to the same destination, went to the same mill, and began work together at the same place and at the same time. Do you claim that to be a coincidence?

A. No, not all of that.

Q. Do you claim it to be a coincidence that you were going—that you went to Mr. Lesser's together?

A. That is not so. We made up our minds to go up there together, but it is a coincidence that we should have happened to have chosen the same boat to come here in.

Q. Suppose that you had not met Mr. Pearson?

A. Well, I should have had to look around for myself.

Q. Where would you have gone?

A. Probably to Wilkesbarre then.

Q. When you left Liverpool on the ship, where was your destination?

A. My destination was New York.

60 Q. Had you any address in New York or any one to go to?

A. No, I did not.

Q. Did you know where the International Lace Company was at that time, when you left England?

A. No, sir; but I have seen the address in England.

Q. Did you know it?

A. Well, I do not know that I remembered it at the time that I came here.

Q. At the time that you left England to come here you knew that there was such a concern as the International Lace Company?

A. Yes, I knew that, as most of the trade knows of Bromley's in Philadelphia.

Q. Was it your intention to go there?

A. I could not say whether it was my intention or not. I would have gone there or anywhere else to accept a good situation.

Q. If you had not gone to Bromley's where would you have gone?

A. Well, there are lace factories in Wilkesbarre.

Q. Did you ever have any personal intercourse with Mr. Pearson; did you ever meet him at more frequent intervals than six months?
A. No.
Q. Did you meet him outside of business?
A. No.
Q. Socially?
A. No.
Q. Belong to any organization with him?
A. No.
Q. And after having met him on board of the ship and had a conversation with him as to where he was going, you made up your mind after he had told you where he was going that you would go with him?
A. Yes, that I would go with him.
Q. Where did he tell you that he was going?
A. To Wilkesbarre?
Q. Anywhere else?
A. No, he did not say anywhere else.
Q. Now you are under oath, remember?
A. Yes.
Q. Did he or did he not mention to you the International Lace Company prior to your arrival?
A. No, he did not.
61 Q. As his probable destination?
A. No.
Q. Did he say what his destination was?
A. Wilkesbarre.
Q. Did he tell you or inform you that he had communicated with any one in this country prior to his sailing for this country?
A. No. He told me that he had a brother at Wilkesbarre, and that is all.
Q. Did he tell you that he had any communication with any one in the lace trade, any firm or a representative of a firm in the lace trade in the United States, prior to his coming here?
A. No, he did not.
Q. Well, what understanding did you have with him?
A. Well, that we was all three in the same trade and that we would all travel together, being strangers.
Q. For what purpose?
A. Only to seek employment.
Q. When you arrived here at Ellis Island and started for New York, where did you go?
A. From New York to Gouverneur.
Q. From here?
A. From Ellis Island.
Q. Yes?
A. I believe that we had something to eat first, I believe.
Q. In the vicinity of the Barge Office there?
A. I do not know. I think we went a way up Broadway.
Q. Did you go alone?
A. No, we all three went together.

Q. Who went with you?
A. Peter and Enoch Pearson.
Q. Besides that?
A. Nobody else.
Q. Did any one meet you at the Barge Office?
A. No.
Q. Did either of you have any conversation with any one there?
A. No.
Q. Where did you go then?
A. We went to Mr. Lesser's office.
Q. The same evening?
A. Yes, the same day.
Q. The same day?
A. Yes.
62 Q. Did you see Mr. Lesser?
A. Yes, sir.
Q. You did see him?
A. Yes, sir.
Q. Have any conversation with him?
A. Well, yes.
Q. Give us the nature of that conversation, tell us what Mr. Lesser stated, and all that occurred between you and Mr. Lesser?
A. All that occurred between us was that I asked him if he had a place that he could give me, and as far as I can remember he said that there were situations at Gouverneur to be had, but that he did not give them, and that the overseer at the factory was the man that set the weavers and most of the other people on, and that I should go up there and see him. Mr. Pearson spoke about going to Wilkesbarre, but he did not want us to go to Wilkesbarre. He said that he wanted hands, and he was satisfied with us, and thought his overseer would be satisfied with us. He advised us to go straight to Gouverneur. That is all.
Q. Who was his overseer?
A. Mr. Stevens.
Q. When did you start for Gouverneur?
A. We arrived on Monday—Tuesday night.
Q. When did you leave Mr. Lesser's office on that day that you first went there, was it in the evening?
A. Well, I could not tell you.
Q. Well, about what time of day do you think?
A. Well, towards the night time.
Q. Did he send any one out with you?
A. No.
Q. Take you anywhere?
A. No.
Q. Where did you go from his place?
A. From his place we went over opposite and had something to eat.
Q. Eat again?
A. Yes, ate again. We lived right. We went from there to a hotel around on Broadway, it was the Continental, I believe that was the name of the place. We stayed there for the night. We

wanted to start that night, but we could not get our luggage from the Barge Office.

Q. The only thing that deterred you was the absence of your luggage?

A. That was it.

63 Q. Then the next day, what did you do?

A. We went about New York, Broadway, and saw the sights.

Q. See Mr. Lesser again the next day?

A. No; I do not think we did.

Q. Are you sure about that?

A. It was towards the night if we did. I believe that we did see him towards the night.

Q. Do you know if his representative took you anywhere and furnished you any transportation?

A. Yes; in New York.

Q. Did they furnish you any transportation, take you to the railway depot and send you to your destination, help you to get there?

A. Well, now, I don't understand what you mean.

Mr. MOLER:

Q. Was your passage paid from New York City to Gouverneur, New York?

A. Yes; according to my understanding it was.

Q. You did not pay it yourself?

A. I did not.

Mr. EPPLER:

Q. Who did pay for it?

A. Mr. Lesser.

Q. Did he do the same thing in the case of your companions, too?

A. I do not know.

Q. But he did do it in your case?

A. Yes.

Q. Did he give you the money?

A. No.

Q. Did not give you the money?

A. No.

Q. Just tell us how he gave you your transportation, was it in tickets or what?

A. He did not give it to me at all.

Q. Did not give it to you at all, what did he do?

A. A young man who is working in the factory in Gouverneur, we went with him and he paid for my ticket.

Q. Did he remain in Gouverneur?

A. Yes.

Q. Employed there all of the time?

A. Yes.

Q. What is his name?

A. Thompson, I believe.

Q. What was your understanding. He paid your passage to go to Gouverneur, to go right to work at the mill, is that it?

64 A. Understanding what?

Q. For what purpose did he pay your passage?

A. Well, now, I do not know.

Q. Did you have money with you?

A. Yes.

Q. Was it out of charity?

A. I guess not.

Q. Well, then tell us what he paid for your passage, if it was not for you to go there and go to work in the mill?

A. Well, I suppose he wanted us, and we did not want to run to any expense, but if he would give me the passage necessary I would go up there to be employed by him, but if not I would not go there, then he wanted to pay the expenses.

Q. What did he say?

A. He said that if we were not satisfied we should not be at any expense.

Q. Is that the custom in the lace trade?

A. I cannot say.

Q. Is it the custom in any business?

A. I cannot say.

Q. Do you want this Board to understand that after you had seen Mr. Lesser he had made an arrangement with his employee Thompson to take you and your two companions to Gouverneur, and that he just did it because he wanted you to see Gouverneur, look around and see how you liked it, and if you did not like it he would pay your way back?

A. No.

Q. Is it not a fact that when you left New York to go to Gouverneur Mr. Lesser paid your transportation to go there, and that you had employment or the promise of employment in his mill in Gouverneur. You are under oath now. State it yes or no?

A. I cannot state it in plain yes or no.

Q. I want you to answer yes or no. Was it true that when you and your two companions went in charge of Mr. Thompson, who is in the employ of Mr. Lesser, or the International Lace Company, and took you to Gouverneur that you were to go to Gouverneur to work in the mill or not—is it true?

A. I do not quite understand.

65 Q. You had not reached Gouverneur yet, but didn't you understand that when you got there, you had work in his mill?

A. If the overseer was satisfied with me.

Q. But before he knew at all whether he was satisfied, before he found out what you could do?

A. No.

Q. You were to go there to work in his mill to see if the overseer would be satisfied with you?

A. Yes.

Mr. PADDOCK:

Q. When did you first see Mr. Thompson, who was the man that went with you?

A. When he left that Tuesday?
Q. When did you first see him?
A. On Tuesday night at Mr. Lesser's office.
Q. Did you see him at the pier?
A. No.
Q. Did you see anyone at the pier from Gouverneur?
A. No.
Q. On your arrival there?
A. No, I don't know as I did. I was on the pier looking after my luggage; I did not see anyone.
Q. Did you hunt around? Where did you go on your arrival?
A. We hunted about and had something to eat.
Q. Did you see any one there whom you have afterwards seen in Gouverneur?
A. No, I don't know that I did.
Q. Is there any one in the employ of the International Lace Works, or in Mr. Lesser's employ, whom you saw at the pier, at the dock, on your arrival?
A. No, there is not, as far I know anyway.
Q. Don't you make any exception to that at all?
A. No, I do not. I don't know as I saw anybody on the dock scarcely at all.
Q. You saw the two Pearsons there?
A. Yes.
Q. They are now in the employ of the International Lace Company?
A. Yes.

66 Mr. EPPLER:

Q. You stated here that you went up to Gouverneur with Mr. Lesser's clerk, Thompson, or whatever he was, to get work in the mill there; if it was satisfactory to the overseer or foreman you would remain there?
A. I did remain there.
Q. And you have been working there ever since?
A. Yes.

Mr. MOLER:

Q. Did Mr. Lesser state to you what wages you were to receive when you left New York, or before you left?
A. Receive union wages.
Q. How much would that be?
A. That was $15 per week, for day work, and of course the trade prices for racks.
Q. He stated then that you would receive $15 per week?
A. Yes, sir.
Q. Are the International Lace Works governed by Union prices?
A. Yes, as near as I know.
Q. Then, if they are governed by union rates—
A. I have received that.
Q. Is the International Lace Company what you understand is called a union factory or shop?

A. No, it is not.
Q. Do union prices govern the class of labor there as you understand?
A. I do not know.
Q. How do you know that $15 per week is the proper union wage?
A. Because they have union men working at the shop there.
Q. When did you first hear of Mr. Lesser, the first time that you ever heard of him, do you remember?
A. I do not know.
Q. Before or after your arrival here?
A. I do not know. I am sure that I could not answer that question.
Q. You do not know whether you knew him or not?
A. I never attached much importance to it.
Q. He is your employer?
A. Yes.
Q. You do not remember when you first heard of him, whether before or after your arrival in this country?
67 A. I do not know whether it was before or after I came here. I may have heard of him on the boat.

Mr. WEIHE:

Q. Do all of the weavers there in the factory there receive the same pay?
A. Well, I know I get it.
Q. They run machines?
A. Yes.
Q. Get $15 per week?
A. Yes.
Q. Then they work by racks?
A. Well, when a man is making racks he gets so much per rack, and he is paid according to the size of the machine. Each machine has its price.
Q. Is the rack work, so far as you know, uniform in the factory?
A. Yes, the prices are uniform.

Mr. MOLER:

Q. You are a lace-curtain maker?
A. Yes.
Q. What is the character of the work that you do?
A. I can do almost anything in that line.
Q. What is the sort of work upon which you are employed?
A. The weaving of curtains.
Q. When did you commence work?
A. About February 4th.
Q. When did you leave New York?
A. We arrived here on the 1st, and we left here on the 2nd at midnight, and we got to Gouverneur on the 4th, 31 hours and a half on the way.
Q. You left here on the 2nd, you arrived there on the 4th, and you went to work when?
A. On the 5th, the next day.

Mr. EPPLER:

Q. Didn't you go to the factory before you went to work?
A. Yes, we went there the morning that we arrived.
Q. What did you do after you went to the mill on the morning of the 4th?
A. Looked around Gouverneur.

68 Mr. MOLER:

Q. Have you received any pay since you arrived there?
A. Yes, every week.
Q. When were you paid the first time?
A. The first pay, why that would be the 8th or 9th, the first Saturday after we arrived there, I received two or three dollars on Saturday after I arrived there for the day's work that I had done.
Q. When did your pay commence, when you left New York, or when you arrived at Gouverneur?
A. When I began work on the 5th.

Mr. WEIHE:

Q. Do you know what the wages are at Wilkesbarre, and at other places for the same kind of work?
A. The wages are $15 per week.

Mr. TREADWELL:

Q. How large a place is Nottingham, England?
A. 300,000 inhabitants.
Q. 300,000?
A. Yes, sir.
Q. When Mr. Lesser told you that he would pay your fare to Gouverneur, was there anything said about return expenses to New York?
A. Well, that is if we were not satisfied.
Q. In other words, if you did not get a job that you were satisfied with, he would pay your fare back to New York?
A. To New York; yes, sir.
Q. Do you know how much the fare is from New York to Gouverneur?
A. No, I do not.
Q. Was there any understanding between you and Mr. Lesser as to when the amount of this fare advanced to you should be paid back?
A. I have not been asked for it yet.
Q. Was there any understanding between you and Mr. Lesser that the fare advanced by Mr. Lesser should be deducted hereafter from your wages?
A. No, there was no understanding.
Q. Do you understand that you are to pay him for that fare or not?
A. I understand that I have to repay it.
Q. How did you get that understanding with him?
A. He is to pay it for nothing.

Q. Then you had no understanding that you were going to have that deducted from your wages hereafter?
A. Yes.

Mr. TREADWELL:

Q. You mean your fare to Gouverneur?
A. Yes.
Q. That is, if you took the job, but if you did not get the job, were not satisfied with you, you would not repay that back, and you would get in addition your transportation back to New York free?
A. Yes, sir.
Q. That you would not have to pay that to Mr. Lesser?
A. No.
Q. You say that Mr. Lesser told you that if the overseer would employ you it would be all right or something of the kind. Can you tell this Board what Mr. Lesser said, or as near as you can possibly recall, what language he used at that time?
A. Well, I cannot, only what I understand from what he said, that is all.
Q. Only what you understood from what he said?
A. I cannot remember the language.

Mr. MOLER:

Q. Did you understand from Mr. Lesser that your employment by the superintendent or overseer would be subject to Mr. Lesser's approval, or that Mr. Lesser's employing people was subject to the approval of the overseer?
A. The latter part of it is true.
Q. How did you understand it. Whose approval was it necessary to have?
A. I would have to have the overseer's approval.

Mr. EPPLER:

Q. The overseer's approval?
A. Whether I was capable of working as I should work.

70 Mr. TREADWELL:

Q. Did you understand that if the overseer disapproved of your capacity as a weaver that you could still be hired?
A. No, I did not understand that; no.

Mr. EPPLER: I object to this line of questioning.

Mr. EPPLER:

Q. But if the overseer found upon inspection of your work, if he approved it, and your services were satisfactory, you were to continue in the employ of the company?
A. Yes, sir.

Mr. NEARY:

Q. Was there any understanding between you and Mr. Lesser as to these questions that have been asked you here either by your counsel or by the inspectors?

A. No, I do not remember anything, sir.
Q. These questions were not discussed between you and Mr. Lesser?
A. In relation to the last question about the overseer.
Q. Who did you understand had the right of employment?
A. The overseer.

Mr. MOLER:

Q. You went to Mr. Lesser to seek employment?
A. Yes.

Mr. EPPLER:

Q. Mr. Lesser said that he would send you up to the mill, pay your passage up there, your railroad fare, and after you got work there, if the overseer was satisfied as to your capacity, you could get employment there?
A. Yes, sir.

Mr. NEARY:

Q. Was anything said by Mr. Lesser as to what the overseer was to decide, that he was to decide simply as to your capacity, were those words used?
71 A. Well, I do not know the words that were used. That was the understanding.

Mr. EPPLER:

Q. You went up there at Mr. Lesser's expense?
A. Yes.
Q. Your capacity was to be simply judged by his overseer, and if capable workman you were to continue there?
A. Yes, sir.

Mr. TREADWELL:

Q. You did not know that when you left New York, only after ou got to Gouverneur, whether you were to be employed or not, d you?
A. No, I did not.

Mr. NEARY:

Q. Who did you look to to hire you?
A. The overseer, I believe, so far as I recollect.
Q. If you were not hired up there at the mill, your passage uld be paid back to New York?
A. Yes.

Mr. EPPLER: I object. The understanding was that Mr. Lesser uld pay his passage back if his work was not satisfactory. That been testified to.

ENOCH PEARSON, being duly sworn, testified as follows:

By Mr. EPPLER:

Q. What is your name?
A. Enoch Pearson.
Q. What is your age?
A. 35.
Q. You came here in company with Peter Pearson, your brother, and John Wakefield?
A. Yes, sir.

Mr. NEARY:

Q. Did you enter into any agreement with any person as to your labor, either direct or indirect, before you left England?
A. No, sir.
72 Q. Did you know Mr. Lesser at that time?
A. I only had heard of him as a buyer when I was working at Beeston.
Q. Were you acquainted with him?
A. No.
Q. Have you ever seen him until you met him in New York?
A. I could not say.
Q. Did you, or did you not?
A. No.
Q. Have you any agreement with any person, or through any person, for your labor in this country, made before you left England?
A. No, sir.
That is all I wish to ask.

Mr. PADDOCK:

Q. When did you first decide to come to America?
A. Well, just at about the time that my brother sold his plant. I was working for my brother.
Q. How long was that before you left?
A. It will be a fortnight.
Q. Before sailing?
A. Yes.
Q. You consulted with your brother regarding the advisability of coming over here?
A. He asked me if I would come over here, and of course I jumped at the opportunity.
Q. Did your brother mention the International Lace Company to you?
A. No, sir.
Q. Never heard him speak of Mr. Lesser?
A. No, sir, I could not say as I did.
Q. Did you ever have any conversation with your brother regarding employment to be had in this country?
A. He said that he would get me a job if he could, that is all.
Q. Didn't you have any further conversation than that?
A. No, sir.

Q. Never discussed with you whether they paid better wages over here than in England?

A. Nothing of the kind.

Q. Just come over here on a chance?

A. Yes, sir.

73 Q. Didn't you know anything about the wages that were being paid over here?

A. I knew that if I could get a job at union wages I would take it.

Q. Did you ever hear of or see any advertisement in the Nottingham papers regarding employment for lace wears in the United States?

A. Yes, I have seen them.

Q. What was the last one that you remember seeing?

A. No. 480 Box office, somewhere, I have forgotten where now.

Q. How many of these advertisements do you think that you have seen?

A. Well, I could not say, as I was not bothering about them.

Q. Did you gather from the advertisement that higher wages were being paid here?

A. No, sir.

Q. Didn't you ever discuss with your brother Peter the advisability of comnig to America?

A. I cannot say that I did; when he asked me to come I said that I would—that is all.

Q. So he asked you to come?

A. Yes.

Q. Would you have come if he had not asked you?

A. I do not know as I would.

Q. You came here because he asked you?

A. I came here because he paid for me, I could not pay for myself.

Q. So your brother paid for your fare?

A. Yes, to New York City.

Q. Did he lend you some money also?

A. Yes.

Q. The ten pounds that you brought with you belonged to him?

A. Yes, sir.

Mr. MOLER:

Q. Didn't you state a moment ago that you did not understand that the wages of lace weavers were any better in America than they were in Nottingham?

A. Never made any statement to that effect.

Q. But you understood that they were better here than they were there?

A. No, sir.

Q. You simply came here on the advice of your brother Peter?

A. I came with my brother.

74 Mr. PADDOCK:

Q. Before you left Nottingham had you ever heard of Mr. Lesser?

A. No, sir, only as a buyer.

Q. Heard of him as a buyer.
A. Yes, sir.

Mr. EPPLER:

Q. A buyer of what?
A. All kinds of lace curtains, and everything of that nature.

Mr. PADDOCK:

Q. From whom did you hear of him as a buyer?
A. I have heard of him at the Anglo-Scotian Mills, when he used to come there.
Q. You were employed by those mills?
A. Served my apprenticeship 15 years there.
Q. Didn't you know that Mr. Lesser was engaged in the business of manufacturing lace in this country?
A. No, sir.
Q. Never heard of him as such?
A. No, sir.

Mr. MOLER:

Q. Where did you start to go to when you left your home in Nottingham, where did you intend to go to?
A. I intended to go with my brother.
Q. You don't know where?
A. No, we were going to New York, as he said.
Q. You did not know your brother's destination when you started?
A. I cannot say for sure that I did. I knew he was going to see my brother at Wilkesbarre.
Q. Did you see your brother?
A. We went to Mr. Lesser's office and we got a job there, and we deferred going to see my brother.
Q. Deferred it until when?
A. Until the warm weather.

Mr. EPPLER:

Q. Do you know John Wakefield?
A. Yes, sir.
Q. How long have you known him?
A. I met him first on the dock at Liverpool.
Q. Where did you say, Liverpool?
A. Yes, on the ship.
75 Q. Ever heard of him before that?
A. No, sir.
Q. Never heard his name mentioned by any one?
A. No, sir
Q. With whom were you last employed?
A. With my brother Peter.
Q. In Nottingham?
A. Yes, sir.
Q. How long did you work for your brother?
A. Nine months.
Q. Up to what time?

A. About a fortnight after Christmas.
Q. Say to the middle of the month of January, or the 10th?
A. Yes, about the 10th of January.
Q. Where did you work before you went to work for your brother?
A. For the Anglo-Scotian mills at Beeston.
Q. How long did you work there?
A. Fifteen years.
Q. Left the Anglo-Scotian mills to go to work for your brother?
A. Yes, when he started in business for himself.
Q. So you left the mills to go to work for your brother?
A. Yes, sir.
Q. During the time that you had been working for the Anglo-Scotian Mills had you ever seen Mr. Lesser?
A. No, sir.
Q. Ever hear of him?
A. Yes, as a buyer.
Q. He bought goods at those mills?
A. Yes.
Q. Did you ever see him when he was there?
A. No.
Q. Did you ever have any correspondence with him?
A. No, sir.
Q. Did you know anybody that knew him that was connected with the Anglo Scotian Mills?
A. Yes, many of the employees knew him.
Q. They knew him personally?
A. Yes.
Q. Had dealings with him?
A. Yes.
Q. Never communicate with Mr. Lesser through these people that were connected with your firm in regard to coming to America?
A. No, sir.
Q. Did you know that Mr. Lesser was in the lace business here in New York City?
A. No, sir.
76 Q. What did you suppose he was doing?
A. My brother told me——
Q. At the time that you were employed at the Anglo-Scotian Mills, you heard of Mr. Lesser as a buyer of what?
A. Of lace.
Q. Did he ever come to the concern that you were employed by and purchase goods there?
A. Yes.
Q. Never saw him there buying goods?
A. Yes.
Q. Did you ever have any talk with him when he was buying goods there?
A. I could not say that I did.
Q. How did he do his business?
A. The men that worked there with me knew all about it.
Q. Did any of your fellow employees have direct dealings with Mr. Lesser?

A. No, sir.
Q. You never spoke to him?
A. No, sir.
Q. Did you ever communicate to him your desire to come to this country?
A. No, sir.
Q. Never said that you wanted to come?
A. No, sir.
Q. And Mr. Lesser never knew of your existence in that concern?
A. No, sir.
Q. Now, after leaving the Anglo-Scotian Mills you worked for your brother for nine months; during that time did you ever see Mr. Lesser or any one of his representatives?
A. No, sir.
Q. Never did?
A. No, sir.
Q. Never heard his name mentioned?
A. No, sir.
Q. Concerning this advertisement that you referred to a while ago, when was the last one that you noticed in the papers—how long prior to your coming here?
A. Nine months and over; one year since.
Q. That was the last advertisement that you saw?
A. Yes, sir.
Q. Did you ever answer that advertisement?
A. No.
Q. Do you know by whom that advertisement was inserted?
A. No, sir.
77 Q. You never answered any?
A. No, sir.
Q. Do you know anybody that did?
A. No, sir.
Q. Never met anybody that answered one of these advertisements?
A. No, sir.
Q. Or received anything through them?
A. No, sir.
Q. Now, when you came with your brother to this country, when you quit his employ, did you have any money?
A. No, sir.
Q. No means at all?
A. Only what he loaned me.
Q. How much did he loan you?
A. Ten pounds and my passage.
Q. Was it simply a loan?
A. No; he voluntarily paid for my passage.
Q. When did you first hear your brother speak about giving up his business?
A. Three weeks before we started to sail to this country.
Q. Did he own any looms or anything of that sort?
A. He had two looms.
Q. What did he do with them?

A. He sold them.

Q. Did you get that money from him while he was still in business or after he had given the business up?

A. Gave the business up, sir.

Q. What was the understanding when he quit the business; what did you intend to do?

A. I intended to give it back again.

Q. What did you intend to do after you had quit his employ?

A. I intended to—I intended to get a new job if he had not asked me to come.

Q. How long before he gave up this business did he ask you to come?

A. He asked me to come—it will be about a fortnight before he gave up his business.

Q. What was the understanding, what did he say to you about your coming to this country. What did he say to you in regard to his prospects here?

A. He told me that he would come to America, and he said would I like to go, and I said that I would right well; that was all.

78 Q. Is that all?

A. Yes.

Q. What did he say about the pay over here, and where he was going to?

A. He was going to see my brother in Wilkesbarre, and if he could get a situation he would take it, and if I could I would too.

Q. Did you and he discuss the fact that Mr. Lesser was in New York, or in the United States, and that he intended to see him in regard to work, to employment?

A. No, sir.

Q. Never mentioned that he was here?

A. No, sir.

Q. His name was never mentioned from the time that you decided to come here until when?

A. Until we got in New York.

Q. You only first heard of his intention of going to see Mr. Lesser after you arrived in New York?

A. Yes, sir.

Q. During the trip in the steamer in the company of Mr. Wakefield, Mr. Lesser's name was never mentioned?

A. Yes; it was never mentioned.

Q. You will swear that it was never mentioned?

A. Yes, sir.

Q. At any time after the conversation that you had with your brother, when he said that he was giving up his business?

A. Yes, sir.

Q. Never was mentioned until when?

A. Until we got in New York.

Q. After your arrival, and you left Ellis Island?

A. Yes, sir.

Q. You never heard of Mr. Lesser until you met him in New York. Between the time that your brother gave up his business on

the other side and you landed in New York, you never heard him spoken of?

A. Yes.

Q. You will swear to that?

A. Yes.

Q. Who paid for your passage to this country?

A. My brother; I have told you that two or three times.

Q. Is that what you always said?

A. Yes.

79 Q. Do you ever recall making another statement?

A. I have told you the same thing over and over again.

Q. Suppose I show you a statement where you did not say so?

A. I have told the same thing over and over again.

Q. Do you ever recollect this testimony that you gave on a prior occasion: "Q. Ever been in this country before? A. No, sir Q. Who paid for your passage? A. Myself. Q. And you came with your brother Peter? A. Yes." Do you recollect that?

A. Yes, sir.

Q. Now which was true?

A. My brother paid for it; I meant to add before that he loaned it to me.

Q. But you never referred to it at that time?

A. But you never asked me. I did say it, too; I said I paid it myself, that is my brother did.

Mr. TREADWELL: I object to these questions.

Mr. PADDOCK:

Q. Are you a member of the Amalgamated Society of Lace Workers?

A. Yes.

Q. Did you, before your departure from England, ever have any conversation with a man by the name of A. Lowe?

A. Yes.

Q. Who is he?

A. He is the secretary of the Beeston Branch.

Q. You told him where you were going?

A. Coming to America with my brother.

Mr. EPPLER:

Q. After you arrived and left here, where did you go?

A. We went to New York and walked around and had something to eat, and then my brother and we went to Mr. Lesser's.

Q. Something to eat?

A. Yes, sir.

Q. Is that the first time that you had ever met Mr. Lesser?

A. Yes, the first time.

Q. Did your brother know him before?

A. Yes.

80 Q. Were you present during the whole interview?

A. No, sir, not quite; I could not say that I was.

Q. Who was present, only you and your brother?

A. Wakefield and my brother, Mr. Lesser's son and Mr. Lesser himself.
Q. Were you present when Mr. Wakefield was there?
A. Yes.
Q. And your brother?
A. Yes.
Q. Did you have any conversation with Mr. Lesser during the interview?
A. No, sir; none.
Q. On that occasion?
A. Only as regards asking him for a job, that was all of the conversation.
Q. Who asked him for a job?
A. We asked him.
Q. But did you ask him?
A. Yes, sir.
Q. Were you the first one that he spoke to?
A. No, sir.
Q. Who was?
A. My brother Peter.
Q. Your brother was?
A. Yes, sir.
Q. Did you hear the conversation between Mr. Lesser and your brother?
A. No, sir.
Q. But it occurred in your presence and you did not hear it?
A. He only asked him for a job.
Q. Did you hear what was said by your brother and by Mr. Lesser, what Mr. Lesser said. Did you hear any conversation between your brother and Mr. Lesser in your presence?
A. Nothing I remember as far as that goes.
Q. Was there anything said by your brother to Mr. Lesser regarding employment?
A. Yes, he asked him for a job.
Q. Is that all that the conversation consisted of?
A. If there is a chance of a job——
Q. He said?
A. My brother asked him if there was a chance of a job.
Q. Job for whom? Was there a chance of a job for whom?
A. For all of us.
Q. All three of you? What did he say?
A. That he could find us something to do at some place——
81 Q. What sort of an answer did he make to your brother, did he say yes, or no; what did he say?
A. He said, yes.
Q. Did your brother ask him what kind of a job, or for something to do?
A. We told him that we have been weavers, and my brother had been a foreman.
Q. What did he tell your brother and you to do?
A. He told us that he would like us to come as soon we could.
Q. What place?

A. His working place.
Q. Where is that?
A. Gouverneur.
Q. Told you to go there as quick as possible?
A. As soon as we could.
Q. What arrangement did he make with you, with your brother, and with Mr. Wakefield about going there?
A. I do not know as he made any arrangement.
Q. Did you go there of your own accord, or did he send you there?
A. He sent us there, of course.
Q. By whom?
A. Some one out of his office.
Q. What was his name, was it Thompson?
A. Yes, it was Thompson. Yes.
Q. Mr. Thompson procured your transportation?
A. Yes.
Q. Take you to the depot?
A. To the depot.
Q. Went up there with you?
A. Yes.
Q. Well, what did he do when you got up there to Gouverneur?
A. We stood looking at one another like a lot of fools.
Q. With Mr. Thompson?
A. Yes, sir.
Q. Had he ever been at that factory before?
A. No, sir.
Q. Never had?
A. No, sir.
Q. Did he go to the factory with you?
A. Yes; we went and had some to eat first.
Q. After breakfast, did he go to the factory with you?
A. Yes, sir.
Q. Did you meet any one at the factory?
A. We met Mr. Stevens.
Q. Who is he?
A. Mr. Stevens and Mr. Lesser's brother.
82 Q. Is he up there at Gouverneur?
A. Yes, sir.
Q. What did you do then?
A. He asked us into the factory to see Mr. Stevens.
Q. Who did, Mr. Lesser?
A. Yes, sir.
Q. Had you ever met Mr. Lesser's brother until you reached Gouverneur?
A. No, sir.
Q. Did Mr. Thompson introduce you to him?
A. No.
Q. Did you reach the factory and introduce yourselves?
A. No, sir, we did not.
Q. What did you do after having had breakfast; you went to the factory, you say?

A. Yes, sir.
Q. With whom?
A. Mr. Thompson.
Q. Then who did you meet?
A. Mr. Lesser's brother.
Q. Then what took place?
A. We told him that we had been sent up there by the other Mr. Lesser who was in New York, and he took us up to Mr. Stevens.
Q. What did you tell—your brother and Mr. Wakefield tell Mr. Stevens?
A. Told him that we had been promised a job by Mr. Lesser of New York.
Q. What did he say?
A. He said all right, if you will come back next morning you can start.
Q. The next morning?
A. Yes.
Q. Did you?
A. Yes.
Q. Did you make any arrangement with Mr. Stevens or with Mr. Lesser's brother up there at the mill as to the wages that you were to receive?
A. No, sir.
Q. Where had that been done, had that been discussed at any time?
A. No, sir.
Q. What arrangement did you make?
A. We were to go in at the right rates.
Q. Commence at the right prices?
A. Yes.
Q. Went to see Mr. Lesser here in New York?
A. Yes, sir.
Q. Sent up to Gouverneur, with Mr. Thompson, the next morning you saw Mr. Lesser up there, who took you to Mr. Stevens,
83 and Mr. Stevens told you to come back the next morning and start in to work?
A. Yes.
Q. Is that right?
A. Yes.
Q. Mr. Lesser, here in New York, sent you with Mr. Thompson, with instructions to take you to his brother in Gouverneur, and then he took you to Mr. Stevens and Mr. Stevens put you to work the next morning after your arrival?
A. Yes, sir.
Q. Is that true?
A. Yes, sir.
Q. What have you been doing ever since?
A. Working at the job ever since, sir.
Q. Were you working until you came here?
A. Yes, until an hour before they came for us, and we were satisfied, too.
Q. You were satisfied?

A. Yes.
Q. With what?
A. I was satisfied with my job.
Q. You are positive that this statement is true?
A. Yes.
Q. What was the compensation that you had, what wages did you receive, how much did you earn?
A. Average do you mean?
Q. What was your pay? At what rates were you paid?
A. So much per rack.
Q. Is that the custom in your business?
A. Yes.
Q. For you to receive so much per rack?
A. Yes, day work——
Q. If you work day work they pay you so much per day, and if you work rack work, they pay you at so much per rack?
A. Yes, sir.

Mr. MOLER:

Q. What were you working at?
A. Depends.
Q. Day work or at the loom?
A. At the loom.
Q. Have you worked any day work since you have been here?
A. Yes.
Q. How much did you receive for that?
A. For the day?
Q. Yes?
A. It is $2.50 per day.
Q. $15 per week, for six days' work?
A. Yes, sir.
84 Q. Did you have any discussion with Mr. Lesser here in New York as to the prices that you were to receive for day work?
A. Mr. Stevens arranged all that.
Q. Mr. Lesser paid for your passage from New York to Gouverneur, did he?
A. Yes, and as far as I know he paid that for my brother.
Q. You did not pay it?
A. No.
Q. Do you know who paid it?
A. No, except the young fellow paid it, Mr. Thompson.
Q. Did you have any talk with Mr. Lesser as to whether the money for your fare would be deducted from your wages?
A. No.
Q. Do you think it will be?
A. No.
Q. Has he made any deduction yet?
A. No.

Mr. PADDOCK:

Q. You were willing to go to work wherever your brother Peter wanted you to, isn't that so?
A. Yes, sir.

PETER PEARSON, being duly sworn, testified as follows:

Mr. WEIHE:

Q. What is your name?
A. Peter Pearson.
Q. And your age?
A. 44.
Q. You are from England?
A. Yes.
Q. Are you in company with any one here?
A. I am in company with my brother Enoch and with John Wakefield.

Mr. NEARY:

Q. Have you any agreement as to work in the United States either direct or indirect made before you left England?
A. None whatever; I came here as a speculation, simply as a speculation.
Q. You had been in business?
A. Yes, I had been in business, in a losing business.
Q. Have you any other business, except as a manufacturer of laces?
A. Yes.
Q. What is it?
A. My own trade.
Q. What is your trade?
A. I was what is known as a reader, it is a part of the lace curtain manufacture.
Q. Have you been in this country before?
A. Yes.
Q. Have you been an inventor?
A. I have invented machines.
Q. When had you been here before?
A. I was here, as near as I can recollect, from April—from early May until the 2nd of August, 1893.
Q. In the exposition in Chicago?
A. Yes, at that exposition.
Q. What were you doing then?
A. I came over with a machine, I demonstrated a machine there. patent could not hold in this country unless you made a demonration and I had a working model of the machine and came over re with that.
Q. You brought a model with you?
A. Yes, I brought a working model.
Q. After you went back to England, what did you do?
A. I went back to work for the same firm that I was working for fore.
Q. When did you begin business for yourself?
A. This machine I am telling you about was put on the trade. In ttingham there are a number of small manufacturers, and this chine was put on the trade to work for these men, as their own nts were not large enough for them to have a punching plant of

their own. Worked for four years on the trade. Then I bought a couple of machines of my own.

Q. How long ago was that?

A. Last spring, last March.

Q. Went to work manufacturing lace machines for yourself?

A. Lace curtains.

Q. For yourself? How long did it continue?

A. I continued up until early in January of this year.

Q. Was your business prosperous?

A. Unfortunately, no.

86 Q. It was not. What did you do when your business was prosperous?

A. Well, I could see that I was working hard for the money, I worked very hard myself. Lost all that I could and come out clear. Pay all my debts.

Q. Did you take council with anybody as to what you had better do when your business was not prosperous?

A. Well, I could see for myself that I could not go much further, and I decided that I had better sell the machines, sell the plant as a going concern.

Q. Did you do so?

A. Yes, sir.

Q. When?

A. It would be, as near as I can recollect, about the middle of January of this year when I sold it, and came out here.

Q. Then what did you do?

A. Well, trade is very bad there, my brother was working for me, and we have heard there that here the curtain trade is very good, and as many there had been coming here, and as far as I knew were doing well, and I thought that I would come here and see whether we could get situations in America. I had a brother in America.

Q. At what place?

A. At Wilkesbarre.

Q. What is his name?

A. His name is Philip. We intended to go and see him.

Q. At that time did you have any agreement as to work?

A. No agreement with any one as to work.

Q. Who came at the same time that you did?

A. My brother Enoch and John Wakefield. He was on the same ship.

Q. And you had the same kind of a hearing before the inspectors here, did you?

A. Yes.

Q. After you were permitted to land, what did you do then?

A. It was late in the day, it was very cold, and we went and had something to eat, and then of course I knew that Mr. Lesser was in New York.

Q. Had you known Mr. Lesser?

A. Yes, sir.

87 Q. How many years had you known him?
A. I could not say exactly. I saw him come to the firm where I worked, and I went there to see what he could do for me.
Q. Then you went to his place on that day?
A. Yes, sir.
Q. Found him where?
A. I think it is 20 East 20th Street.
Q. Who went with you?
A. My brother and John Wakefield.
Q. Well, tell us as near as you can, what occurred when you saw Mr. Lesser?
A. Well, when I saw Mr. Lesser he was surprised to see me here. I told him my business here, and I told him what I was after; asked him whether——
Q. What did he say?
A. I asked him if he had a good situation. I told him that I had old my business, of course, and that I had come to this country to get work.
Q. Yes?
A. And that my brother was with me as well; whether he had nything, whether he could find me a situation as a corrector.
Q. What did he say?
A. He told me that he could not give me a position as that, as he lready had a man as corrector, and reader too.
Q. What did he say?
A. He said that I could go up to Gouverneur, and there might be chance of a situation as assistant manager. Of course, I never ad been assistant manager before in my life. Of course, I have een among machines all of my life, and I felt myself fully quali- d to take such a position, and naturally when he offered it to me was very glad to take it.
Q. Go on and give as much of the conversation with Mr. Lesser you can remember?
A. I told him first of all that my idea was to go to Wilkesbarre, t he did not seem to want me to go there. I told him that I had brother there, but he wanted us to go to Gouverneur, and if we uld go there right away, he would undertake to pay all of the penses, so as we could come back to New York if we did not get a situation.
Q. What did he do if you did not get a situation?
A. Of course, he left the management in the hands of a nager at Gouverneur.
Q. Did he tell you who he was?
A. His name is Stevens. Of course, we would go up there, and it ppened that there was another man going up there too, a young ow.
Q. Did he say who that was?
A. He did not say so at that time.
Q. Did he tell you who that was, who was it?
A. Yes, it was Thompson. I did not know who he was at the e, I had never met him before in my life.

Q. Go on, keep on with the conversation with Mr. Lesser.
A. Well, so far as I can say, there was very little more took place.
Q. Did he say that the others were going up with you?
A. Yes, he said that we were going up there together. We asked him if he was employing weavers, and he said that he thought there was a good chance of getting a situation, and my companions should go up there and make application.
Q. You went up there with Mr. Thompson, who paid your way, I suppose.
A. We went around New York, and the next day we left on the 11.30 at night from the central station. We were 31½ hours on the way.
Q. When did you get to Gouverneur?
A. Seven o'clock on Thursday morning. We were snowbound and we did not get there until that time.
Q. What did you do when you got there?
A. We met Mr. Morris Lesser, and applied for a situation, and Mr. Stevens put us to work the next morning.
Q. Mr. Stevens did?
A. Yes.
Q. And you have worked there ever since?
A. Yes.
Q. Until you came down here?
A. Yes, ever since.

Mr. MOLER:

Q. Who paid your passage from here to Gouverneur?
89 A. Mr. Lesser. I wanted to go to Wilkesbarre, and he said that if we would go up with this young man that was going up there that night, he would undertake to pay our expenses.
Q. Pay your expenses up there whether you got a situation or not?
A. Yes, sir.
Q. Do you know what position Mr. Lesser occupies with reference to the International Lace Company?
A. He is what I would call the manager.
Q. Do you understand that the manager of this factory has the job of employing labor?
A. Well, not always.
Q. Do you understand whether Mr. Lesser has the power to employ labor or not?
A. If he delegates the powers to others. I could not say whether he has the power or not. From my experience with him I should say that he has not.
Q. Did Mr. Lesser promise you employment while in his office?
A. No.
Q. Never talked with you as to the amount of wages that you were to receive up there?
A. Certainly there was something said about wages, but there was nothing definite decided.
Q. What wages did you agree on?
A. With Mr. Lesser, $25 per week.

Q. What wages was your brother to receive?
A. I do not know; they made their own arrangement.
Q. You did not make any arrangement for your brother?
A. I did not make any arrangement for them.
Q. You had nothing to do with Mr. Lesser or with any other person as to the wages that your brother was to receive?
A. There was no arrangement at all made in New York.
Q. What wages is he receiving now?
A. $15 per week.
Q. You all arrived here the first day of February. Where did you state that you were going?
A. I stated that I was going to see my brother at Wilkesbarre.
Q. You did not state positively that you were going, but had an idea that you were going?
A. That is so.
90 Q. How long has your brother been here?
A. Six years last December.
Q. What is his trade?
A. He is a corrector.
Q. Working in the lace mills?
A. Yes.
Q. Were you invited by him to come to America?
A. No.
Q. Not by any person?
A. Not by anybody.
Q. Not by anybody?
A. No.
Q. You state positively that you were not invited to come to this country by any one?
A. I state positively that I was not invited to come to this country by any one.
Q. Mr. Pearson, there will be no question about your intelligence, no doubt whatever; were you entirely non-confused when you were before the Board before?
A. No.
Q. You were not confused, were you?
A. I cannot remember that I was.
Q. Can you remember ever having been confused?
A. Well, I cannot say that I am always clear-headed.
Q. The statements that you made when you were before the Board previously, were made deliberately, and were the truth, and you understood all of the questions asked you, didn't you?
A. Well, I expect I did, I think I did.
Q. Did you consider at that time that there were any unfair questions asked you?
A. I cannot remember what was asked me.
Q. The statements that you made at that time were the truth as you understood it to be?
A. As far as I remember it was.
Q. The statements that you made at that time were the truth as you understood it to be?

A. As far as I remember it was.

Q. You stated at that time that you were invited to come to America, and now you state that you are not; which is true?

A. I do not think——

Q. You made this answer: "Q. Were you invited by any person to come to this country? A. Yes. If I said I had not been invited I would be telling a lie."

91 Q. Did you make that statement?

A. Well, I might have done so.

Q. Is that the truth?

A. It is not in the way it is put there.

Q. Why did you state that?

A. I think that I could explain it if I be given an opportunity.

Q. Well, explain it then?

A. One thing that I meant to say in regard to that is this. Some months ago I saw Mr. Lesser.

Q. Where?

A. In Nottingham, and during a talk on business, he was at the firm as a buyer, I spoke to him in this way, whether there was any chance of a situation with his firm, and he said no.

Q. Mr. Lesser told you in Nottingham that he had no work for you at his factory in Gouverneur, did he?

A. Certainly.

Q. Told you that he did not?

A. Could not give me any work.

Q. Then why were you anxious to hurry right to his office and hunt for work when you came here?

A. It was the first place, and it was on the spot.

Q. You have stated here to the effect that there were lace factories in Wilkesbarre?

A. That is so.

Q. You state positively that Mr. Lesser never did promise you any work?

A. Certainly.

Q. And on the other hand told you that he had no work for you?

A. He had no work to give me.

Q. Was it said in that way?

A. Certainly not. He said that if ever he was in a position to give me a position he would give it to me. That is what I meant by the invitation. He would give me a situation, if I should be here, and provided he had it.

Q. Did you have any understanding, or did you have a direct understanding, did you discuss the amount of the wages that you were to receive with Mr. Stevens after you arrived at Gouverneur, and before you went to work?

A. I arranged matters with Mr. Morris Lesser.

Q. At Gouverneur?

A. Yes.

Q. That is the brother of the Mr. Lesser that you met in New York?

A. Yes, sir.

92 Q. Then you made no arrangement whatever with Mr. Stevens as to the compensation that you were to receive?

A. The only conversation that I had was at the end of the week, when Mr. Stevens came to me and asked me what wages I was to receive.

Q. But have just stated that Mr. Stevens is the manager, that he is the employer of the labor, and do you mean to say that he did not know how much you were to receive?

A. I don't suppose that he had anything to do with the wages.

Q. Don't you think that is a little inconsistent?

A. Certainly not; Mr. Stevens' position is that of an expert, and he has nothing whatever to do with the finances.

Q. Nothing to do with the employment of the labor?

A. Nothing to—well, he engaged the labor.

Q. Does he simply pass upon the qualification?

A. If a man applies to him for a position, he ascertains whether that man is fitted for the situation.

Q. Did he have the power to hire or refuse to hire, and to discharge men?

A. As far as I understand, as far as my experience goes, I would think he had the power either to hire or refuse to hire labor, as suited him.

Q. Is it a fact that he is there simply to pass upon the qualifications of those who applied for employment as lace weavers?

A. His business there is to manage the manufacture.

Q. Do you understand that Mr. Lesser, the brother of Mr. Lesser in New York, is empowered with the authority to hire and discharge labor at the factory?

A. I do not know anything about that.

Q. Who engaged you?

A. Mr. Morris Lesser.

Q. He has the power to employ labor?

A. I would only answer for myself.

Q. Did he in your case?

A. Yes.

Q. Who employed your brother?

A. Stevens.

Q. Who employed Mr. Wakefield?

A. Stevens. It was in the office and Mr. Morris Lesser was present.

93 Q. Is the authority to employ labor there scattered under the various heads of departments, to employ the labor needed by them; do you know?

A. As far as I know, the lace industry is divided into various departments; there is necessity for organization, and it might be divided into a number of departments which are entirely distinct.

Q. Is Mr. Morris Lesser a lace weaver himself?

A. I would say not.

Q. Is he an expert in that trade?

A. I think he is a wholesale buyer.

Q. Did he occupy the position of passing upon the qualifications of an employee?

A. I do not think so.
Q. Who posed in that capacity?
A. Mr. Stevens.
Q. Did he pass upon you before you were employed and went to work?
A. If Mr. Stevens did not think, had not thought I was competent, I would not have been employed.

Mr. WEIHE:

Q. With whom did you make the arrangement about your wages?
A. Morris Lesser. Then Mr. Stevens did not know what arrangement had been made, and then later on he came to me, and wanted to know what money he was to pay me, and then I told him.

Mr. MOLER:

Q. What arrangement did you make with Mr. Lesser in New York as to the payment of your passage to Gouverneur?
A. That if I would not go to Wilkesbarre, and I would go right up there instead, he would pay our passage there.
Q. Told you that you could have work when you arrived there?
A. We could see Mr. Stevens; there was nothing definite.
Q. Have an agreement with Mr. Lesser that your passage to Gouverneur would be deducted from your wages?
A. I expected it.
Q. Did you have that arrangement?
A. There was that arrangement, yes.
94 Q. How is it to be deducted from your wages, if you have no contract?
A. There was no contract.
Q. Did you have any understanding that if you did not work, did not get the situation, about the fare, the money that he laid out for your passage?
A. If I did not take the situation, Mr. Lesser stood to lose the money for the passage up there.
Q But any way he would pay your passage back to New York if you did not go to work there?
A. Yes.
Q. Do they employ skilled labor of a particular class at that factory?
A. No——
Q. The machines in use there are the same as are in use at Bromley's in Philadelphia, and in other places in the United States?
A. Yes.
Q. Does it require a particular class of skilled men to work these machines?
A. It requires the best class of skilled workmen.
Q. The character of the work turned out by that company is lace curtains?
A. Only lace curtains.
Q. That is all you know of?
A. Yes.

Q. The manufacture of lace curtains has been in operation in the United States for a great many years, has it not?
A. It has, yes.
Q. For how long, do you know?
A. Fourteen years.
Q. It is in no way a new industry?
A. It is a new industry.
Q. The making of lace curtains a new industry?
A. It is in a certain sense.
Q. How so?
A. Because the business is not learned in a short time.
Q. How long does it take an ordinary person to become an ordinary adept?
A. Some of them never become an adept at all.
Q. But an ordinary person?
A. They may become gray-headed in the business, and then never learn.
Q. For a man of ordinary intelligence, how long does it take?
A. They reckon in the trade about four years; but a boy has to be brought up in the trade.
95 Q. Did you ever see any advertisement in the Nottingham papers for lace weavers to come to the United States?
A. No.
Q. Never seen it?
A. No.
Q. At any time?
A. No, I could not recall.

Mr. PADDOCK:

Q. How long have you known John Wakefield?
A. I have not known him very long, I have seen him where—really, I do not know him very well at all.
Q. Did he ever speak to you about coming to America?
A. I could not say, I did not know any of his business. He was only casual acquaintance, and I could not say when I saw him last.
Q. Did you belong to the same labor organization?
A. I could not join one; my position——
Q. Did you or did you not?
A. Yes, I did—they won't allow me to be a member.
Q. What is that?
A. They do not allow any one in a union who holds a position as a foreman, or as an assistant foreman; and now as I am a foreman that debars me from being a member of an organization.

Mr. PADDOCK:

Q. Do you know the secretary of that organization; first, what is the name of the organization?
A. The Readers, Punchers and Carders Society.
Q. Is Mr. A. Lowe the secretary of the society?
A. No.
Q. Didn't you tell the secretary of that society where you were going to work when you left Nottingham?

A. I never saw the secretary.

Q. You stated in your examination on February 1, 1904, as follows: "Q. Did you come here with the understanding that you could or would make an arrangement with Mr. Lesser regarding employment in any factory that he was connected with in the lace business? A. I certainly came here in that faith. Q. Did
96 Mr. Lesser at any time give you to understand, during your conversation with him, or through any other medium, that when you came to this country you would receive employment in this factory? According to what your services were worth? A. He inferred if I came to this country, no doubt if I applied to him I would get a situation, though there was no understanding."

Q. Did you tell any one before you left Nottingham that you were going to Mr. Lesser's factory?

A. I did not.

Q. Did not mention that you might go there?

A. Certainly, I might have mentioned that I am going there, the same as if I was going anywhere else.

Q. You know of the International Lace Mfg. Co., you knew of it?

A. I did not know any more than they had got lace machines, the same as Bromley's at Philadelphia.

Q. But you knew that Mr. Lesser was manufacturing lace in Gouverneur, New York?

A. Yes, I knew that.

Q. Did you pay the passage of your brother to come to this country?

A. Yes.

Q. Did you buy the ticket for him?

A. Yes.

Q. You bought the ticket for him; did you pay the money for it?

A. Yes. It was the understanding that if we got work here, he would pay me back again for the ticket.

Mr. TREADWELL:

Q. Was there anything said in New York, before you went to Gouverneur, that if you were not satisfied yourself that your passage would be paid back to New York by him?

A. On that point there was this understanding, that if there was not a situation for me or for my brother Mr. Lesser undertook to reimburse us, to come back to New York.

Q. Put you back in New York where you started from?

A. Yes.

Q. Well, now you have been asked by the Commissioner
97 why it was that you did not go down to Wilkesbarre first to see your brother instead of going to see Mr. Lesser here in New York. Is it the fact that Mr. Lesser was nearer and that is why you first went to see him?

A. Certainly; it was there right to hand.

Q. Then you could go to see Mr. Lesser right here without any expense before you went on your way to Wilkesbarre, could you not?

A. Yes.

Q. Was there any other reason why you went to see Mr. Lesser that first day?

A. That was the only reason; it was on the spot, and I would have to come up here to see him afterwards.

Q. When you got to Gouverneur, did you understand that you were perfectly free on your part to accept or to refuse to accept such employment as was offered to you there, and if you chose to refuse it, that you could come back to New York, and that your expenses would be paid to New York, all of your expenses?

A. I would get back to New York without expense.

Q. Then you were perfectly free to do as you pleased?

A. Perfectly free.

Q. Did you understand, on the other hand, that the International Lace Company were perfectly free to accept or refuse to employ you?

A. Certainly.

Q. Except that they were to be put to the expense of paying you for your trip up to Gouverneur and back again to New York?

A. My understanding is that Mr. Lesser was anxious to give us a job, and that he would rather pay our expenses up there, as he was short of weavers, than let us go to Wilkesbarre first. That was my impression at the time.

Mr. MOLER:

Q. During your conversation with Mr. Lesser in his office, did he give you to understand, or did you believe, that he had the right to employ labor for the factory?

A. I asked him for work and he offered to pay my expenses if I would go up there.

98 Q. At $25 per week?

A. I did not make the arrangement with him; I made the arrangement with Mr. Morris Lesser.

Q. Then you had no understanding as to the amount of wages that you were to receive?

A. At this end I did not know how much he would pay.

Q. You state that Mr. Lesser offered to pay the passage for the three of you from New York to Gouverneur, and then from Gouverneur to New York, if you were not satisfied. Do you think that would be the act of a good business man, do you think that is good business; would you have done that if you had been in business for yourself?

A. I could not say that I would do anything of that kind.

Q. Do you think that is a good business proposition?

A. I suppose he wanted us up there.

Q. When you were here before, you stated that you were going to your brother?

A. That was my intention.

Q. You stated to this Board, when you came before it on the 1st of February, that you came to the United States with your brother, Enoch Pearson, to go to Wilkesbarre to your brother Philip?

A. That was my intention; I intended to go up there to see my brother.

Q. But you did not go to see your brother?
A. When I first took the job I thought that I would be able to see my brother very shortly.
Q. You thought that Gouverneur was nearby Wilkesbarre, did you?
A. No; but I did not think it was such a long way off.
Q. You have been here before?
A. Yes.
Q. Where?
A. In Connecticut.

Board adjourned at 4.40; case to be continued next day, March 30, 1904.

GEO. S. CURRY, *Secretary.*

99 First Board.

At a Special Inquiry held at Ellis Island, New York, March 30, 1904. Present, Messrs. Moler (Chairman), Weihe and Eppler, Inspectors.

Also present: Mr. Paddock, Attorney for the Commissioner of Immigration, and Messrs. Neary and Treadwell, attorneys for aliens in cases below.

Continuation from March 29, 1904, of hearing. Cases called at 10.30.

Case of Pearson Peter, 44, male, English, ex ss "Etruria." Date of arrival, February 1, 1904. "Brought to this station March 24, 1904, on Dept. warrant No. 43563."
With brother and John Wakefield.
Contract Labor Case. Wm. Scarlett, Inspector.

also

Case of Pearson, Enoch, 35, m., English, ex ss "Etruria." Date of arrival, February 1, 1904. "Brought to this station March 24, 1904, on Dept. warrant No. 43563."
With brother and John Wakefield.
Contract Labor Case. Wm. Scarlett, Inspector.

also

Case of Wakefield, John, 27, m., English, ex ss "Etruria." Date of arrival, February 1, 1904. "Brought to this station March 24, 1904, on Dept. Warrant No. 43563."
With Peter and Enoch Pearson.
Contract Labor Case. Wm. Scarlett, Inspector.

Mr. EPPLER: Mr. Chairman, I think we can dispense with the presence of the Mr. Pearsons and Mr. Wakefield. I would like to examine Mr. Lesser. (Request withdrawn and aliens remained present.)

100 Mr. LESSER: called, sworn, testified:

Mr. MOLER:

Q. What is your name?
A. Joseph S. Lesser.
Q. Where do you reside?
A. 308 West Eighty-eighth Street.
Q. What is your business?
A. Well, I am in the manufacturing and general merchandising.

Mr. WEIHE:

Q. Have you an office anywhere in the city?
A. 20 East Twentieth Street.

Mr. MOLER:

Q. New York City?
A. New York City.
Q. Where is your place of business—your manufacturing establishment?
A. In Gouverneur, New York. It is not my own; it is a corporation.
Q. What position do you hold in the International Lace Company?
A. President.
Q. President of the company?
A. Yes, sir.

Mr. EPPLER:

Q. It is in Gouverneur, New York?
A. Yes, sir. The firm here is J. S. Lesser & Company—at Twentieth Street I speak of.

(Examination of witness continued by Mr. Neary.)

Mr. NEARY:

Q. How long have you been in the lace business, Mr. Lesser?
A. I have been in the lace business since 1876.
Q. In company with anybody?
A. Our firm was first Louis Cabel and Lesser until the year 1887. It was then changed to J. S. Lesser & Company.
Q. Who is the company?
A. My brother.
Q. His name?
A. Morris. And since 1887 it remained the same. The organization is really a different firm. That firm continues. And J. S. Lesser & Company is still in existence.

101 Q. What is the business of J. S. Lesser & Company?
A. Same as we were always, selling laces, lace curtains and embroideries.
Q. I had reference to what has been heretofore?
A. The same kind of business. While heretofore we used to import the same class of goods, laces, embroideries, curtains.

Q. From where, chiefly?
A. Chiefly from Nottingham. Also Switzerland, Germany; chiefly from Nottingham. That is the chief centre for those goods.
Q. In the transaction of your business, did it take you abroad?
A. Yes; twice a year. I have crossed eighty-eight times.
Q. In visiting Nottingham, did you meet Peter Pearson?
A. Many times.
Q. How long ago?
A. For the past twenty years, I think, I know him. It is quite a number of years.
Q. You became acquainted with him?
A. Yes.
Q. What was his business?
A. Well, when I first knew him, many years ago now, I knew him as an expert reader and corrector, so called, on the machine, you know, used for laces. I used to do business with the manufacturer where he was employed and I came in contact with him in the course of business transactions. He used always to be called in. The principal consulted him on certain things regarding the manufacturing, designing and making, to carry out my wishes. We have all our own patterns. His boss used to call him in to consult with him. I met him in that particular instance, many, many times. Subsequent he has invented a machine and has invented a certain machine; everybody thought it would revolutionize the world. I believe it is. I have known him as an inventor. He left the place there I believe to sell his invention. I don't know how he came here. I then lost track of him. His boss died and I lost track of the place.
102 That is, I didn't do any more business after this man died. I met him occasionally in Nottingham, as he was in the manufacturing business. He had machines and came in to see me and consult me. In fact the last time he wanted to sell goods. Came in to sell goods. He was a manufacturer.
Q. That is the time you now speak of?
A. Yes, the last time; that was in Nottingham.
Q. You can go on—he owned an invention?
A. He was one of those who came to see me. He told me he has got a certain machine, namely, known by (name of machine not heard). I suppose it is immaterial. Whether I could buy goods in the brown, for the trade sell in the brown in Nottingham. The manufacturers have been, of course, men that sell in the brown. Well, I said I might. I wasn't just open at that time; he could bring what he had or bring the pattern too. He told me in the course of conversation that things were bad. I asked him how things were going with him. He said things in England are getting very bad. It is shifting. The trade is shifting to America. You understand, any one in the trade to buy machines he has to go in to Nottingham for the best machines in the market. Anybody must come to Nottingham to buy these machines. There are only four machine builders, and when one comes to buy machines he must take time also to place orders for three hundred thousand dollars. You make bids. Everyone connected with the trade, the man-

ufacturer and wo[illegible] know it. He knows that somebody is buying machines. One tells another. He said he knew I was buying machines and he asked me how things are in America. I told him the trade in America was very good in that line. He said it ought to be because it is shifting from this side. He said he had the idea he would sell out. He was not doing well. What chance he would stand in America. I said I think a man like you could stand a very good chance. There is always in America something to do
103 for good people. I don't know exactly every word that was said. This was the sum and substance of it. I then left for the Continent and I came back to Nottingham probably in a month or six weeks later. He came in to see me again. He showed me a patent or a sketch he was making on his machine and asked what I thought of it. This time he said he was anxious to sell the machine: if he tried enough he could get a chance to sell. He is sure to do it and mind——

Q. Did he tell you he will come to America?

A. I was—he said do you think there will be a chance in your place. I said I could not say just now. We have got one man. Just engaged two or three months. If you come to America, I don't think you will find any difficulty to find a job. Plenty of factories there now. I only stayed in Nottingham a couple of days. I haven't seen him since until he came to America. I sailed two or three days after and——

Mr. EPPLER:

Q. To America?

A. To America. I haven't seen him since until I met him, which was in our place. I do not remember the day—I believe it was in February. It was around there. I was a little surprised to see him. He came without any ceremony. He came in there and introduced me to his brother. I never met his brother in my life. He introduced me in New York the first time. Another gentleman who was with him and the brother, he said was a ship mate or room mate, I forget the word he used.

Mr. NEARY:

Q. Did he give his name?

A. He told me the name, Mr. Wakefield and his brother. And then he commenced to tell me of the troubles he has had here landing here. You are a fine country, he says. You don't let people in. In fact he went over the general situation. You call it a free country, he said. There I have been kept like a prisoner for
104 no crime. Of course I didn't think anything about that. I simply said there was some laws regarding the entrance of aliens. I supposed he went through the formality. I thought everybody else went through the same. That was finished——

Mr. MOLER:

Q. Did he tell you at that time his destination in this country?

A. Well, I will get to that. Then I asked him where he was going, and he said he intended to stay a day or so in New York.

Then go to Wilkesbarre. Got a brother there; got a good situation over there he learned. He knows there are several factories there, he said, in Wilkesbarre. He found the pay is good there where he is almost sure to get a fine situation, as his brother is not a good skilled workman as he is and he would find work there without difficulty. I couldn't tell him to go to Wilkesbarre, that it is a good place for such people. I felt all the time if he goes there I will never see him again and I at that time wanted people—in fact I want them now—and I commenced to talk against Wilkesbarre. I told him Wilkesbarre would be a bad place. He would pay more for things; everything dearer; everything I could think of against Wilkesbarre; he shouldn't go there. I told him if he was to go to our place he would find himself more comfortably situated. Some pleasure, cheap living, and the Lord knows what else I didn't tell him to induce him to go to our place. Of course he was bound to go to Wilkesbarre. He wouldn't listen. Took one some time to persuade him. At last I made an offer for him to go up there; I would pay his expenses and if he would not find the situation suitable I would pay his expenses back. That was the inducement I made to get him to go.

Mr. EPPLER:

Q. That offer held good for all three?

A. Yes, sir. As a matter of fact they are not the only
105 people that we paid expenses. We pay from New York. We have sent up batches of New York people and Boston people and Wilkesbarre, prepay expenses from New York—otherwise they wouldn't go. Our competitors in Wilkesbarre and in Philadelphia are doing their utmost to keep people away from our place. They say you will freeze to death up there, thirty below. You will freeze to death. Snowed in all winter. They will do everything. We are so far out of the way; we are in the extreme northern part of the State and it is not easy to get people to leave their homes in New York or Philadelphia or anywhere to go there in the northern part of the State in the winter. Our competitors make capital of it and they use it. We have got to do something.

Mr. NEARY:

Q. Did anybody go with them?

A. Mr. Thompson. He was going up there also—an employee—and happened to go at the same time, that is, next day, and of course they went with him. Mr. Thompson has gone up there since and is living there. We paid his expenses. At the same time, two days after, a batch of people went up, a Mr. Hearn, a Mr. Hill, a Mr. Murphy, all went up. We paid expenses.

Mr. NEARY:

Q. If there was anything else in particular that was said in New York before they went, you wish to mention you said to them?

A. Well, I don't know what particular instance or what would interest the commission. Don't know exactly what would be of interest to them, except what it was on the subject.

Q. Now, in Nottingham, did you make any agreement of any money, of a nature other than you have mentioned here?
A. None whatever.
Q. Or statements to them of cash?
A. None whatever.
106 Q. That is the only thing you did?
A. The only statement was, I said that things in America are very good in that line.
Q. Was he in business at that time?
A. He was in business for himself at that time. He was, I understand, offering to sell me goods.
Q. You made an affidavit at Gouverneur to Mr. Scarlett?
A. Yes, sir.
Q. Did you invite him to come to this country?
A. No, sir.
Q. Did you say any more on that subject than you have testified to?
A. That's all.
Q. In the affidavit that you made before Mr. Scarlett, it is stated that you did not pay any of their expenses—in substance—from Nottingham to Gouverneur; did you understand?
A. Well, that word I thought intended from Nottingham here to New York.
Q. New York City?
A. Yes, sir. I wasn't asked particularly about Gouverneur. I was asked did you pay their expenses from Nottingham. I said no. I said then I pay for all these people from New York.
Q. Did you know that that expression had been in the affidavit?
A. I didn't notice it at all. I didn't scrutinize. The thing was made and Mr. Scarlett handed it over to my typewriter to be typewritten. That might have escaped my attention, the word Gouverneur.
Q. If you had been asked "From America or New York"?
A. I certainly would have said that I paid from New York to Gouverneur.
Q. Did you make any further arrangements with them as to employment in New York City?
A. Nothing further.
Q. Who had charge of the employment of men in the International Lace Company?
A. Well, each particular head of department has particular charge of his particular department.
Q. And who was in charge in the department in which
107 they were expected—intended they would work?
A. Mr. Stevens has charge of that particular department.
Q. Did you give his name to them?
A. Yes, sir.
Q. Was the question of wages discussed at New York?
A. Well, there was something said what we are paying up there.
Q. What did you say on that subject?
A. I said I wasn't quite clear on that subject. I said we pay as much as any factory in the country.

Q. Do you pay Union wages up there?
A. We do.
Q. Is it a Union shop?
A. There are some people who belong to the Union, I dare say, but we don't consider it so. I don't ask.
Q. Why isn't it a Union shop, Mr. Lesser?
A. Because we couldn't accept the Amalgamated Association—that's what they call themselves—the Amalgamation of Nottingham Lace Makers in connection with these here Philadelphia people, they are amalgamated; they call themselves the Amalgamated Lace Makers' Association, as far as I know them. I couldn't accept their terms, their conditions, not their terms or their conditions. The secretary was in to see me last summer.
Q. What were the conditions of the Association that you could not accept?
A. The most objection I have is really that they do not allow any more than one apprentice to seven machines, which means one apprentice to fourteen men, and we have built a factory covering now three acres of ground, that is the company has in Gouverneur, in which there are one hundred and fifty people from the town interested, directly and indirectly. Directly with the money because they are all shareholders. We have got one hundred and fifty shareholders in that town. All the business men, the best people in the town, all the judges, lawyers and doctors stockholders. In fact the welfare of the town depends upon it, and because there was no work in the town until we built there for girls, or men for
108 that concern. They were bidding for us to go there. They wanted the factory in order to employ the people of the town, that they wouldn't leave, the children particularly; you understand how many people we are employing, and of course we couldn't accept such conditions. If we are restricted to one apprentice for fourteen men, when we have a factory, an investment of five hundred thousand dollars, covering three acres of ground now, with new machinery coming in all the time, we couldn't do it. If we were to go and appoint one apprentice for fourteen men, it would mean ten years before he would become a weaver, a laceman. As a matter of fact our shareholders, as I said there are one hundred and fifty of them in the village, would object to any such conditions. Because what chance would a young man have, or a girl either, if we were restricted to employ one for fourteen men? What chance would there be for any one of them? The object for which the factory was built up there would be defeated by it. And that was really one of the objectionable features, assisted by all their arbitrary methods and things; but I said to the people, to the secretary——

Mr. EPPLER:

That's not the question.

A. I can only explain in what way we do not recognize the Amalgamated Association of Philadelphia.

Mr. NEARY:

(To chairman.) Is there anything on that subject?

Cross-examination.

Mr. MOLER:

Q. When did you establish your factory in Gouverneur?
A. What do you mean, when we started to break ground?
Q. When did you open the business?
A. We are building yet.
109 Q. When did you commence to manufacture laces?
A. Manufacturing laces? We started one department in May—a year next May.

Mr. EPPLER:

Q. Last May, nineteen hundred and three?
A. Yes, last May. It was to make certain goods which——

Mr. NEARY:

Q. Your answer is, please, when you started the looms?
A. I believe the first loom was started—I believe the loom was started last October. I am not quite certain, because I was away when the first loom was started. It is either October or November—just a few months ago.

Mr. MOLER:

Q. Do you employ the same methods, the same machinery that are used in Philadelphia, Wilkesbarre, and by other lace making manufacturers in the United States?
A. I don't know their methods.
Q. You know the machinery?
A. We have got different machines. We have machinery they haven't got there. We have lace machines and I don't know there are any there.
Q. Yes. In a commercial way you arrange your factory to compete with Bromley of Philadelphia and other people?
A. To make money, to compete with everybody, to make goods that the trade require. Goods we used to import we make now here; we have the same things, the same patterns.
Q. You have substantially the same kind of machinery as you have had the last thirty years?
A. Substantially so, yes; in Germany, England and Switzerland.

Mr. NEARY:

Q. In this country have they got the same machines that you have got?
A. I don't think the same make as we have.

110 Mr. MOLER:

Q. You state a while ago there are in Nottingham four manufacturers of looms—lace making machines—that they deal practically in all the lace making machines of the country. Do those four

different machine manufacturers substantially make the same s
of machinery?

A. In a measure to be sure. Some change, some improvement.

Mr. EPPLER:

Q. Are there any machines that are made in England by a
machine making firms of which you can control the sole output?

A. I do not quite understand the question.

(Stenographer reads last question.)

Q. Have you the sole right for any particular kind of machin
that are made in England for the purpose of making laces?

A. No, I have not.

Mr. PADDOCK:

Q. Mr. Lesser. On how many occasions did you talk with Pete
Pearson regarding employment in this country, before he came
here?

A. Well, I don't quite understand this question either. I told
you how many times we met in Nottingham. If you ask me the
question which in particular, why I will answer it.

Q. I ask how many times did you talk with Peter Pearson re-
garding employment in America?

A. I didn't talk to him regarding any employment in America.

Q. Well, you testified that he asked you——

A. Well, that's a different question. He asked me how things
were in America, and I told him very good; yes.

Q. You have had some difficulty in getting men for your factory,
have you not?

A. I do find difficulty here.

Q. You had to advertise?

A. I advertised; yes. We advertised where—did you ask me
where?

Q. No; you stated in your affidavit?

A. Right.

111 Q. Did you mention to Mr. Pearson of the difficulty of
getting men here?

A. No, sir. Not in the month of November, 1903.

Q. You had some conversation with two men, who asked you to
pay their passage to this country?

A. Yes, sir.

Q. Do you recall the names of those men?

A. No, I do not. I never—I don't know them—I never was in-
terested enough to remember the names.

Q. Did you mention to Peter Pearson our contract labor laws?

A. No, sir.

Q. Never said anything?

A. Not as far as I remember; I really don't remember that.

Mr. EPPLER:

Q. But you might have?

A. Don't say.

Q. Will you say you did not?
A. I can't remember it.
Q. Will you state you did not?
A. I would not say not.
Q. You will not deny that you ever spoke to him on our Contract Labor law?
A. As far as I remember, I am safe to say I never spoke to him.
Q. You wouldn't be positive enough to swear to that effect?
A. I wouldn't swear to a thing as a fact unless I was quite positive.
Q. Exactly.

Mr. MOLER:

Q. You know, Mr. Lesser, the particulars of the Contract Labor Law, do you not?
A. Not altogether. I know there is such a thing as against bringing in labor what is called Contract Labor Law; but of the particulars I do not know.

Mr. EPPLER:

Q. How long have you known of the existence of that law?
A. Oh, I don't know. Of course I read the papers. Probably for a great many years.

Mr. MOLER:

Q. In the employment of labor, have you never had occa-
112 sion to investigate the operation of the Alien Contract Labor Law?
A. No; never any occasion.
Q. You advertise for employees for your factory?
A. I advertise. We built a factory in this country. I advertised for help, of course; of course up to that time we have had no occasion for it.
Q. Have you had difficulty in employing a sufficient number to run your machines and do your work?
A. Yes. At present we have difficulty in getting help we require.
Q. Did you advertise in this country and the old country as well?
A. No; in this country. In more than one paper.
Q. In more than one paper. Never did advertise on the other side?
A. On the other side, no.

Mr. WEIHE:

Q. How many machines do you run in your establishment?
A. We have built for thirty, but we haven't got as many in the place now. There are nine about that make goods. The tenth will be finished, and there are three more waiting to be erected. There is another one on the way there. Coming in every month or so.
Q. How many persons do you employ at present?
A. A little over two hundred.
Q. How many weavers?
A. Well, we have got—I don't really—I don't think there are more than twelve or fifteen; I don't know exactly. Don't know how we stand there. Haven't been there now in two weeks.

Q. What is the nationality of those you have, expert as weavers?
A. Well, I don't know. I think there are some Americans. There are some Englishmen. Of course, the nationality of all the weavers, ninety per cent. in this country are Englishmen. Go to Philadelphia, to Wilkesbarre, go everywheres.

Mr. EPPLER:

Q. We were speaking of your place.

113 Mr. WEIHE:

Q. In your place?
A. Americans as well as Englishmen.
Q. Those Americans you have, did you get them from your other establishments or gather them up wherever you could?
A. Out of other establishments.
Q. What are the wages paid to weavers?
A. Whatever they make. There is a scale of wages paid by piece, so much per rack. We pay as well as they pay in any other factory.
Q. What do you pay your weavers?
A. Same price.
Q. What is that price?
A. I don't know exactly from memory. Each machine has a scale. I can't tell you exactly every scale of wages. Number six so much, seven so much. That is so complicated. A good weaver will make more money than a bad weaver.
Q. Do you pay by the day or week?
A. When they got machines they are employed by piece. When they do helping or tying up a machine—it takes so many weeks to get goods ready, that is to pack them. In a week they make up the wage as fifteen dollars a week, as long as they haven't got machines to work. If they got machines, they work piece work.
Q. Did you ever have any difficulty about wages in your place?
A. No.
Q. You say you do not know what the prices are in other factories similar to yours?
A. I do know, but I do not know by heart. We have got to take the union scale of wages and the pay goes by that.
Q. These men you employ there now. In a general way they have been there since the factory started?
A. Well, some of them have been there since the factory started. I don't know exactly which men or length of time. I have been away a good deal myself.
114 Q. When you started the machines, did you start them first, when you opened, how many did you start at once?
A. Well, they came about one a month. I wasn't here. They start about one a month. I think four or five started at the same time.

Mr. EPPLER:

Q. At the same time?
A. Yes. I am not quite sure. When a machine arrives in the country it takes about three months before it can make goods.

Q. Did you at any time advertise here in New York, or in Philadelphia for people?

A. Oh, yes. Very poor results.

Q. When you had machines ready, did you always have some one to take them?

A. No; very poor results from our advertisements, as far as I know from our treasurer, Mr. Parker. He is editor of a newspaper up there and president of a savings bank. He is treasurer of our company. He has done advertising. He has been in the newspaper business. He told me no answers. Those we got to answer we got up there. Some stayed a little and left and some are there yet.

Q. Don't you think that as that is a good place for living, everything up there so cheap, it would be pretty well known throughout those other factories, if you paid the same wages, don't you think that would induce them to come over?

A. Mr. Commissioner, I wish it strictly understood the "if" is not necessary; we do pay the same wages. The reason why it is hard to get men up there I couldn't tell you. As I said before, our competitors say we freeze. Thirty below zero. Snowed in for six months. All this sort of thing is bringing to bear against us that these weavers know and the weavers will not come. A weaver wants to stay where he will find his own people there. He wants to stay in a city like Philadelphia, where he gets everything, special amusement and all other things. And it is pretty hard. I don't know why it is. The particular reason, except that it is in New York. Gentlemen, that is the only reason. I don't know why they don't come.

Mr. TREADWELL:

Q. Is it a fact that those in the neighborhood up there haven't anything to do with the difficulty of getting labor?

A. Decidedly. We can't get labor in the vicinity. There never was any lace making in the vicinity, and the people in the vicinity do not know anything about it.

Q. Mr. Lesser, is it true that a large number of weavers collect in Wilkesbarre?

A. Oh, yes, I should say so. They have a good many associations together there.

Q. Therefore, isn't it a more attractive place for a weaver to go to Wilkesbarre than Gouverneur?

A. Decidedly so. I have heard from the information we get, from good reliable sources, there are plenty of machines standing idle in Philadelphia and in Wilkesbarre for want of weavers and operatives. Plenty to do. Standing idle.

Mr. PADDOCK:

Q. Is that known in your factory?

A. Known in our factory? I don't know. There are many, many in the factory yet, standing idle. Want to get more; God only knows what we shall do.

Mr. EPPLER:

Q. You were up there, I think, about three weeks ago?

A. I am not quite sure. The day I made the statement to Mr. Scarlett; that day.

Q. That was on the eleventh?

A. That's the day.

Q. How many looms do you now have working?

A. At that time there were nine.

Q. How many looms were actually running?

A. Seven were running. That is, they were not running on what we call full time. We had to divide up and give them day work, instead of going day and night as all factories must do

116 Q. And there were two idle?

A. Two idle.

Mr. NEARY:

Q. The others couldn't work full time because you hadn't the help enough?

A. They work full time when you employ men day time, a gang working day and night. When you haven't got men the machines stand idle at night.

Q. That's what I want to ask, for want of help?

A. The machine does not work full time. We must work day and night to work those machines up, because they cost so much.

Mr. EPPLER:

Q. I would like to ask you, Mr. Lesser, the last time you went to Europe; when did you leave the United States?

A. I don't know.

Q. Well, about?

A. I think the end of September.

Q. In September, nineteen hundred and three?

A. Three, yes. October or November, beginning. I don't know.

Q. How long did you remain over there?

A. I got back the early part of December.

Q. Do you recollect about the date?

A. Really I don't know; remember the landing date.

Q. Do you remember the day you sailed?

A. It was the middle of December, somewhere around the ninth, tenth or eleventh.

Q. Do you remember the name of the ship?

A. Yes, I know the name of the ship, the "Kronprinz," from Bremen.

Q. Where did you board the ship?

A. I boarded the ship at Southampton.

Q. In the month of December?

A. In the month of December.

Q. When you were on the other side during that trip, how long a time did you spend in Nottingham, to the best of your recollection?

A. Well, I was there when I landed from New York. I went there to Nottingham and I stayed there, I should think, about two weeks.

117 Q. During that stay, did you see Mr. Pearson?

A. I did.

Q. Did he call on you?
A. He called on me.
Q. Was he still in business?
A. Yes, sir.
Q. Was he a manufacturer of laces?
A. Yes, sir.
Q. Did he sell you any goods?
A. No, sir; I wasn't buying any goods.
Q. How often did you see him during that stay of two weeks?
A. I don't think I saw him more than once or twice—not more than twice.
Q. Did he discuss the question of coming to America with you?
A. He said things were not so good in Nottingham and that he had an idea to sell out and go to America, that he might do better over there. As I said before, I said that things in America were very good.
Q. After those two weeks you went to the Continent, you say?
A. Yes, sir.
Q. When did you return to Nottingham?
A. Just a short time before I sailed.
Q. How long did you remain there before sailing?
A. Well, I don't remember exactly; a few days, not very many.
Q. Did you see him again during that stay?
A. I did.
Q. How many times?
A. Once.
Q. Only once?
A. Yes.
Q. How long prior to your sailing?
A. That I couldn't tell you. I don't know exactly.
Q. You sailed just a couple of days after having the interview with him?
A. I don't say that. I don't know exactly.
Q. How long did you stay in Nottingham?
A. I couldn't tell you to save my soul.
Q. Was it a week?
A. It might have been a week.
Q. Was it two weeks?
A. I don't remember.
Q. During that second visit to Nottingham, you saw him only once?
A. Only once as far as I can remember.
118 Q. Did you discuss at that last interview with Mr. Pearson about his coming to the United States?
A. Nothing more than I said.
Q. Was it discussed again?
A. I asked him how he was getting on, whether he has got his machines, whether he is doing better. He said, no, things are not much better, and as there is a decided falling off on this side he may sell out and go to America.
Q. Do you know the kind of machines he had?

A. I know they were curtain machines; what kind I do not know.

Q. Ever see them?

A. No, sir.

Q. Did you ever find out he had a brother in the same line of business?

A. What line of business?

Q. That he is in?

A. No.

Q. Did you ever know that he had a brother in that business?

A. No.

Q. You never knew of any other Pearson outside of himself?

A. No, I never knew he had brothers. Why, he told me he had one in Wilkesbarre.

Q. When did he tell you that?

A. While that conversation—in the end of December.

Q. In Nottingham?

A. In Nottingham.

Q. That was the only brother you ever heard of?

A. Yes, sir.

Q. You never knew he had a brother named Enoch?

A. Never knew it.

Q. Now, Mr. Lesser, you are an American citizen, are you not?

A. I am.

Q. How long are you cognizant of the provisions of the Alien Contract Labor Law?

A. I don't know.

Q. Do you know of the existence of such a law?

A. I do.

Q. How long have you known that fact?

A. Oh, I don't know that.

Q. Have you known it five years; have you known it ten years?

A. I couldn't tell you how long I have known it. Every day something comes up in the papers; a man reads the news——

1137 Q. Now, Mr. Lesser, you are an intelligent man, and you are able to answer this question, instead of evading it?

A. I am not evading it.

Q. You do. You know that there has been an immigration law, in which the importation of alien contract labor is punishable against the law, do you not?

A. I said I know there was such a law in existence.

Q. How long do you know that, to your certain knowledge?

A. I couldn't tell you how long I know it.

Q. Have you known it thirty days?

A. More than that.

Q. A year?

A. I should think so; more.

Q. Two years?

A. Probably.

Q. Three years?

A. I don't know. It might have been years; I don't know.

Q. Two years ago you knew it?

A. I don't know so to the actual time, only I could know by reading it in the newspapers. I couldn't tell you. I might have known it for ever so long. I—I tell you I read the papers three times a day, and things come up, and in a year from now I wouldn't know what I read in them.

Q. Did you ever discuss the Alien Contract Labor Law with any one in connection with the lace business? (Question repeated by stenographer.)

A. I did.

Q. With whom?

A. With a couple of men in Nottingham that came to apply for a situation.

Q. What was the nature of that interview?

A. They said they wanted to come out to America to look for a job; they knew me to be there. Why, I said, that ends it, I can't do anything for you. It is against the law to take out anybody, or pay his way, or encourage him anyway.

Q. How long ago was that?

A. My last trip to Nottingham.

Q. During your first or last visit there?

A. I think it was during the early part of the fall.

120 Q. You think when you first arrived there?

A. I couldn't say. It was during my visit to Nottingham; whether it was the first time or second time I don't know.

Q. Did that ever occur prior to that, the same nature and circumstances?

A. I don't know.

Q. To your recollection?

A. I did not say so.

Q. Did you have any applications on a previous visit, prior to your last trip to Europe, for positions in that line of yours?

A. I don't remember. I don't think so. I am not sure of that. In fact I think not.

Q. When were you in a position to first begin to make inquiries for help for your factory at Gouverneur?

A. At Gouverneur?

Q. Yes, sir.

A. We have been employing people at Gouverneur since last May.

Q. Since this last May?

A. Yes, sir.

Q. When did you begin to make inquiries as regards weavers and loom operatives?

A. We have inquiries with people all summer long.

Q. Last summer?

A. Yes; through those sections where lace makers are to be found.

Q. What position does Mr. Thompson hold in your employ—in the company out at Gouverneur?

A. Mr. Thompson has been shipping clerk.

Q. Where?

A. He has been in New York. Now he is up there.

Q. How long has he been permanently employed at Gouverneur?
A. Since he went up there.
Q. When was that?
A. With the people; I don't remember the day.
Q. Oh, since he went with them. Prior to that he was stationed in your office in New York?
A. Yes, sir.
Q. How long has he been in your employ?
A. A good many years.
Q. Have you opened the lace works up there?
A. Oh, yes.
Q. How long has Mr. Auverson Stevens been in your employ?
A. I don't know the exact date. It was last spring, I think, he started in.
121 Q. He started in before you started to make lace on the looms?
A. Yes, sir.
Q. How long before that?
A. A good many months before.
Q. How many months, do you know?
A. Well, I don't know exactly; I really don't know exactly the months. It might have been four, five, or six months; I don't know exactly.
Q. Prior to your starting the looms—prior to your making lace?
A. Looms are started before they make the lace.
Q. I mean to say starting making lace?
A. Yes, that's it.
Q. Did you have any weavers in your employ prior to starting to make lace?
A. Prior to starting to make lace?
Q. Yes.
A. Tying up machines.
Q. Has Mr. Stevens been in your employ ever since?
A. Yes, sir.
Q. What is his nationality?
A. English.
Q. He is an Englishman?
A. Yes, sir.
Q. How long has he been in this country?
A. I don't know exactly; about a year or so.
Q. About a year?
A. Probably; I don't say whether it is a year or not.
Q. Had he ever been working with any other lace concern in the United States before he worked for you?
A. He was in Boston before.
Q. Did he ever work for any other?
A. Yes, in Wilkesbarre.
Q. When?
A. More than a year.
Q. Then did he leave his employment in Wilkesbarre and come direct to you?
A. No.

Q. What did he do?
A. Went back to England as far as I know.
Q. After his return to England he came back to this country nd entered your employ?
A. After he returned to England I don't know how long he ayed there.
Q. He didn't work for any other lace concern in this
22 country after he left Wilkesbarre and returned to England until he entered your employ?
A. No, he didn't return to Wilkesbarre. Except to work for us.
Q. You are president of the company, you say?
A. I am.
Q. What position does your brother hold?
A. Vice-president.
Q. The treasurer is?
A. Mr. B. A. Parker.
Q. Who is secretary?
A. My son.
Q. Where is his office?
A. In Gouverneur.
Q. Lives up there all the time?
A. Yes, sir.
Q. Has your brother his permanent residence up there?
A. Yes, sir.
Q. Since you have opened these lace factories up in Gouverneur, ave you ever employed any people at all?
A. What do you mean; did I, personally?
Q. Did you ever engage any one to work in that factory at all?
A. No; engaged, not what you may call an engagement.
Q. Did you ever give any one employment?
A. No, I do not bother myself about it. I leave it to the heads f every department. A man applies for a job in the bleachery de- artment, and I send him to that head man, or to the loom depart- ent, and so on.
Q. How many departments are there in your factory?
A. A good many.
Q. How many?
A. I should say a dozen.
Q. How many heads of departments?
A. Each department has a head.
Q. You have a dozen heads?
A. I didn't say a dozen heads.
Q. How many?
A. I will count them up, if you will let me (figures on slip of aper). I have eighteen down I can remember.
Q. Eighteen heads?
A. Yes, sir.
Q. Each department has its own head?
A. Yes, sir.
Q. Any of those heads of departments control two branches?
(Question repeated.) A. No, only one.
23 Q. Each one has his own?

A. Each one has his own.
Q. How long do you know Mr. Stevens, Mr. Lesser?
A. Oh, I have not known him very long. A short time, perhaps two years or more. Three years or thereabouts.
Q. When did you first meet him?
A. Over there.
Q. In England?
A. In England.
Q. What was he doing then?
A. He was foreman there.
Q. In a lace work?
A. In a lace machine shop.
Q. How often did you see him over there?
A. Several times. I had negotiated with his people to buy a machine.
Q. With his people?
A. His firm. He was always called in by his principal and consulted on the makes and so forth.
Q. What year was that in, do you remember?
A. What year?
Q. Do you remember when that was?
A. More than two years.
Q. How much more?
A. Probably two years and a half or so.
Q. Where did you next see him?
A. I saw him in New York next. I saw him a good many times over there, you know.
Q. When did you see him in New York?
A. Last spring.
Q. Last spring?
A. Yes, sir.
Q. Now, how long an interval occurred between the time you refer—when you saw him in England and last spring when you saw him in New York?
A. Probably a few months. Five or six months or thereabouts.
Q. How long had he been in America when you met him last spring?
A. I couldn't say exactly.
Q. About?
A. He wasn't here very long.
Q. A few days?
A. A few days; yes, sir.
Q. You saw him at your office?
A. Yes, we were then in Broadway.
124 Q. But four or five months prior to that he was in Nottingham, where you had seen him?
A. Yes.
Q. What was he doing in Nottingham?
A. Foreman in a machine shop.
Q. Had you ever met in the United States before that?
A. No.

Q. What?
A. No.
Q. Did you ever know of his being in the United States before?
A. Yes, sir.
Q. When was he in the United States before that, to your knowledge?
A. I know he was in the United States. I knew it all the time; I know that he had been in the United States.
Q. How long had he been here?
A. I don't know; I think a year or so.
Q. When did he return to England?
A. I don't know, or exactly. I wasn't sufficiently interested to know.
Q. Do you know? Do you, when?
A. No, I don't know.
Q. Ten years back?
A. I couldn't tell you.
Q. Do you know what he was doing when he was here before?
A. Yes, he worked for some firm in Wilkesbarre. For one lace making establishment there.
Q. During that stay you speak of, had you met him?
A. No.
Q. Never met him?
A. No.
Q. Only met him after he returned to England and was working in this lace machine shop?
A. Yes, sir.
Q. And subsequent to that you met in your office?
A. Yes.

Mr. TREADWELL: Mr. Chairman, I haven't had a word to say. I see these alien immigrants here. I can't see for what possibility, after this matter has been gone into so long, it concerns these persons, the aliens, and their rights in this country. I do not dispute for a moment the widest range of cross-examination to test
125 the witness on any other subject as to his credibility. It seems to me we have gone over the same discussion when he was here. I do not see what it has got to do with whether these people were ineligible to come to this country. As to Mr. Stevens, the question of Mr. Stevens coming to this country, the examination has proceeded to the greatest length about Mr. Stevens. I do not wish to curtail it at all, but it does seem to me we are getting away beyond the range of these immigrants.

Mr. EPPLER: Under the laws and practices of the United States Immigration Laws, I am not exceeding my limit at all.

Mr. TREADWELL: Then I wish to say——

Mr. EPPLER: I intend to pursue this question until I am satisfied as to the correctness of the witness's statements.

Mr. TREADWELL: There is no doubt of the right to pursue the right cross examination to show his credibility, but it does seem to me that even under any law that ever was passed in this country, or any other, that there is a reasonable limit to a proceeding, that we

may have gotten away from the inquiry which is before us now. If there is any definite proposition with regard to Mr. Stevens bearing upon this proposition, I make no objection. I simply enter my protest on the record to the matter going beyond any reasonable length. It seems to me it has gone beyond that length. I do not mean to infer any objection to his being asked further. I do respectfully call the attention of the Board, if we haven't gone as far on the subject of Mr. Stevens; it concerns him, nothing to do with the aliens before the Board.

126 Mr. MOLER: It has been the practice of this Board to give the widest latitude to all these difficult cases, in fact with peculiar liberty to the alien. So far as to the objection raised to the questioning by any member of this Board, there never has been any rule laid down by the Government, or as to the methods of the examination. The chairman of a Board has no control over the action of any member of the Board, that is as to his individual action and questioning. Any member has the right to go as far as he deems proper in that investigation.

Mr. TREADWELL: I did not expect to make a legal objection; I simply called attention that it seemed to me a polite question, without any objection. I protest it has been pursued a great ways further than any wide latitude would call, in regard to this man Stevens, so far as these alien immigrants were concerned.

(Examination of witness continues.)

Mr. EPPLER:

Q. Did you, during your stay on the other side, have any business relations with Mr. Stevens?

A. No. No business relations.

Q. Any conversation with him as to his coming to the United States?

A. Not probably so.

Q. Will you state that you did not have?

A. Well, it depends what you may call a conversation.

Q. In regard to his coming to the United States in his professional capacity?

A. Not directly; no.

Q. Indirectly?

A. Not even indirectly. Not with him. I never had any such conversation.

Q. Did you have any conversation about coming to the United States at all under any condition?

A. Not as I can remember. He probably thought to come.

Q. Did he ever mention that to you?

Q. Not as I remember.

127 Q. Will you declare that he did not?

A. Well, I don't know. I could declare he never said anything to me about it. He might have said something; I don't remember.

Q. Did Mr. Stevens, since he has been in your employ, ever speak

to you regarding any friends on the other side? Did he now?
A. No.
Q. Did you ever consult him and ask him?
A. No.
Q. Did you know whether he was acquainted with any friends on the other side?
A. I do not know. I do not know that he has, as a matter of fact.
Q. Has been?
A. I don't know he has been. Never came into his line of business.

Examination of Witness closed.

PETER PEARSON, recalled, testified:

Mr. PADDOCK:

Q. Did you say to any one before your departure from England that you were going to Gouverneur, New York?
A. No.

Mr. MOLER:

Q. You never made the statement then, Mr. Pearson, to any person in England, before you sailed to this country, that your destination was Gouverneur, New York?
A. My destination was New York. I never said I was going to Gouverneur. I might have said I would call on Mr. Lesser. I might go to Wilkesbarre.
Q. That isn't the question, New York or Wilkesbarre?
A. I never said any such thing. I booked here; but during my business career I met many American gentlemen, that is both——

Mr. EPPLER:

Q. Confine yourself to the question?
A. It pins you down; you create a wrong impression.

Objection made by Mr. Eppler. Evasion.

128 Mr. MOLER: That's all. Sit down.

ENOCH PEARSON, recalled, testified:

Mr. MOLER:

Q. Did you state to any person in England where you were going?
A. No, sir.
Q. Were you asked your destination?
A. Mr. Arthurson (?) said where are you going to. I told him I was coming to America with my brother.
Q. You didn't state your destination?
A. No, sir.

Mr. PADDOCK:

Q. Before sailing, when you were in Liverpool, did you go to the steamship company office?

A. I went with my brother. I waited outside, while my brother——

Q. Did you state, while you were in Liverpool, to any one that you were going to Gouverneur, New York?

A. No, sir.

Mr. EPPLER:

Q. (To Peter Pearson, recalled.) Did you purchase your tickets in Nottingham or in Liverpool?

A. I sent for my tickets; money to the Cunard Line in Liverpool.

Mr. MOLER:

Q. Did you write a letter to the Cunard Line at Liverpool for your tickets?

A. From Nottingham to Liverpool.

Q. Upon which the tickets were issued?

A. Schedule was sent.

Q. There was a schedule sent for you to fill out?

A. Yes.

Q. A statement?

A. Yes. Where I came from, my age, native——

Q. You filled it out?

A. Yes.

Q. In your own handwriting?

A. Yes, sir.

Q. For yourself alone?

A. My brother filled his.

129 Q. Then you made no further declaration in Liverpool?

A. No, sir.

Q. Did you go to the steamship agent's office?

A. I went to get a draft, and——

Q. Your stateroom was sent to you in that letter that you wrote before?

A. Yes.

That's all.

Mr. EPPLER:

Q. When you wrote to the agent in Liverpool from Nottingham, what did you receive in Nottingham?

A. I received this schedule and tickets.

Q. Anything else?

A. Received the tickets for the luggage with the other tickets.

Q. Did you receive a blank to be filled out?

A. Yes, a schedule.

Q. A schedule with different questions; occupation, destination and so forth?

A. Yes, that is so.

Q. Then you filled the words in on the blank?

A. Yes.

Q. Did you fill them out yourself?

A. Yes, sir.

Q. In your own handwriting?
A. Yes, sir.
Q. Did your brother fill out his, to your knowledge?
A. Yes.
Q. And you returned them by mail to the office?
A. Yes, to the company.

Mr. MOLER: Gentlemen, if there is no further witness to be called the case is closed, as far as taking any evidence is concerned.

(Mr. Eppler wished to ask Mr. Lesser further questions.)

Witness, J. S. LESSER, recalled.

Mr. EPPLER:

Q. Do you know Edwin Roberts?
A. Yes, sir. He is in our employ.
Q. How long has he been in your employ?
A. I don't remember exactly.
130 Q. About?
A. A few months.
Q. Is he in your employ longer than the Pearsons have been?
A. I don't know. I think so.
Q. Do you know how long?
A. I don't know the exact time. It is several months I know.
Q. Did he ever work for any concern in this country before he worked in your factory?
A. Not to my knowledge.
Q. Does Mr. Wyld work for you?
A. Yes, sir.
Q. Does Mr. William Gane work for you?
A. Yes, sir.
Q. How long?
A. I don't know just exactly. I think it is a month or two. I don't know the exact time.
Q. Did they start to work for you before or after the beginning of the Pearsons' engagement with you?
A. I couldn't say, really. I don't know whether they started before or after.
Q. Do you know whether they have worked in any lace work in the United States before?
A. I don't know.
Q. Do you suppose you would have known it if they had?
A. I don't know whether I would. The best reference for a lace man to get work in any lace factory is his experience. That is what we require. If a man comes and says he has been twenty years, naturally we are satisfied.
Q. One moment. To your knowledge they never worked in this country before?
A. No, it is not to my knowledge. I don't know. In fact I never asked them.
Q. But they do work for you?
A. Yes, they do work for me.

(Close of re-cross ex. of J. S. Lesser.)

(Attorneys for aliens stated they would consume about 15 or
minutes for their argument, and preferred to wait until after lunch

Adjourned for lunch at 12:10.

131 Re-convened at 1 o'clock.

(Attorneys for aliens conversed with Board in regard to manife
sheet on which appeared the names of the three aliens in this ca
marked "Exhibit H," which conversation the stenographer was
structed was not for the minutes.)

Mr. PADDOCK: I offer in evidence certificate as to the landing
the alien, Peter Pearson, dated March thirtieth, 1904, signed
William E. Junker, Chief of the Statistical Division, Ellis Islan
also similar certificate for the alien, Enoch Pearson, and a simil
certificate for the alien, John Wakefield. These three certificat
marked "E," "F," "G."

I withdraw this certificate as to John Wakefield—"G." (Copi
of "E" and "F" appended to these minutes.)

Mr. Treadwell here addressed the Board on the matter of a
alleged discrepancy on the manifest sheet (Ex. "H"), which addre
he requested not be taken.

Mr. MOLER: Mr. Treadwell objects to the manifest (Exhibit "H
on the grounds that the handwriting in column sixteen in bracket
of Peter Pearson, visit to Gouverneur, New York State, and h
brother, bracket, Wakefield in same bracket. After the name
Wakefield in column sixteen, the words, bracket, "No address," a
written. I understand the objection of Mr. Treadwell to the manife
is he contends that the "Visit to Gouverneur, New York State,"
written by a person different from the one who wrote the name, i
column number two.

Mr. TREADWELL: I claim it is written in a different handwriting
different to the other writing in connection with said Pearson.

There is a question, gentlemen, I want the Board to as
132 each of the three witnesses, a specific one: that the item wa
asked of them and entered by the steward on board the ship
That is all I want to ask them.

Mr. MOLER: That is fair.

Alien, JOHN WAKEFIELD, recalled.

Mr. TREADWELL:

Q. Were you asked by any one, and if so, by whom, on board
the ship in which you came to this country, to give your destination?
A. I was.
Q. By whom?
A. The chief steward.
Q. Did he have any paper with him at the time?
A. Well, one similar to that (Ex. "H").
Q. What did you tell him?
A. I was going to New York.
Q. Did you give any further address?
A. No, I was——

Q. Did you tell him you were going to Gouverneur, New York?
A. I did not.
Q. Did you ever tell anybody that prior to sailing?
A. No.
That's all.

Cross-examined.

Mr. EFFLER:

Q. Did you see him make any entry on this manifest?
A. Yes.
Q. What was it?
A. He wrote it out on the table.
Q. Did he write the whole of it, all the way across?
A. I believe so, I won't swear to it.
Q. Did you see him?
A. I was aside of him.
Q. Did you see him write this manifest, on line 15 on which your name appears?
A. I won't swear I did see him write it.
Q. Did you see any one else write it?
A. No.

133 Alien, PETER PEARSON, recalled.

Mr. TREADWELL:

Q. Were you asked by anybody on board ship, where you were going in New York?
A. On board ship, the steward on one occasion had a manifest similar to that I should say (Ex. "H"); then he asked, as far as I could see, all the passengers; he asked me, and I told him I was going to New York. Said what address. I didn't say what address. I had the address of a hotel in New York but forgot it. I could find it. He said that wouldn't do. I must give some address. I told him I was going on a visit to this country and I really didn't know where I should go. Go several places. Wilkesbarre. Might go to Philadelphia, might go to Gouverneur. He said you might sit there. I didn't know what he intended to do.

Mr. EFFLER:

Q. Was the blank manifest made out in front of you?
A. As far as I could judge all names were filled in the last column. It was similar to what that might be there (Ex. "H").
Q. The way it is now?
A. As far as I could judge.
Q. Did you see him write anything?
A. No. I don't know, remember.
Q. Did you see him make an entry?
A. I saw him make an entry.
Q. Did you, which?

A. I couldn't point to it. I don't know what other paper he had before him.

Q. You were there, you said?

A. I stood there.

Q. He questioned you?

A. He asked me where I was going.

Q. Did he write anything on this sheet, that were the answers to his questions, yes or no. Did you see him do it?

A. He made an entry.

Q. What entry did he make?

A. I couldn't tell you. He asked me those questions.

134 Q. You say you saw him, what entry did he make?

A. Those there to the questions he asked me?

Q. Are you prepared to swear that he did make an entry in your presence on this particular sheet, where your name appears?

A. As far as I can see he made an entry.

Q. What entry did he make?

A. I don't know.

Q. You ought to, you say it struck you as funny.

Mr. TREADWELL: He didn't say that. He said he didn't know.

Mr. EPPLER:

Q. Are you prepared to swear that the purser or steward on board the ship, entered this part of it on the manifest, in your presence?

A. As far as I can see.

Q. Look at it, yes or no.

A. I don't know.

Q. Did you see him make any particular part of this entry, yes or no?

A. He made an entry.

Q. Are you prepared to swear he made any particular part?

A. No.

That's all I want to know.

Mr. MOLER:

Q. Where were you when the steward approached you with the manifest, either this sheet ("H") or one similar?

A. In the saloon.

Q. Did he have more than one sheet?

A. A sheet like that.

Q. One sheet as you remember?

A. Yes, sir.

Alien, ENOCH PEARSON, recalled.

Mr. TREADWELL:

Q. While on the ship, coming to this country, were you asked by any one, and if so, who, to give your destination, or any question?

A. No, sir. I was with my brother. He did all the speak-

135 ing. We both in the room together. He did the talking.

Q. Were you present at any time, when he was asked by any one where you were going?

A. Yes, sir.
Q. Who was it?
A. The steward; the head steward, I think.
Q. Did they have any papers with them?
A. Yes, one of them (Ex. "H").
Q. One of these ("H")?
A. Similar to that (referring to Exhibit "H." Manifest sheet, list D, steamship "Etruria," dated New York, February 1, 1904).
Q. You say that the chief steward of the second cabin presented this to you?
A. Yes, sir. Presented it, not to me myself.
Q. Well you were with your brother?
A. Yes, he did write on a sheet of that kind.
Q. About how long before you landed in New York did he make his appearance with that sheet?
A. On the third or fourth day out from Liverpool.
Q. Did you pay any particular attention, where he had more than one sheet, or just one sheet?
A. Seemed to me to have all the passengers in a row.
Q. Did you see more than one sheet; did you see any more than one sheet of this kind?
A. I couldn't say as I did.
Q. You don't remember?
A. No, sir.

Mr. EPPLER:

Q. Did you see him write anything on that manifest?
A. Who, sir?
Q. The chief steward?
A. Yes, sir, I saw him write.
Q. What did he write; point it out? (Ex. "H" put before him.)
A. Can't point it out.
Q. You say you saw him write; point it out?
A. I wasn't near enough for that. I was with my brother and thought he would do that, seeing I was coming with him.
136 Q. You are prepared to swear now that the chief steward of the second cabin filled this out on the passage over?
A. Yes. (Peter Pearson from settee) No.

Mr. EPPLER: We want no prompting.
Mr. TREADWELL: But yet I say one thing. The question, I say to you again, gentlemen, why you put the words into his mouth. I want——
Mr. EPPLER: I will let you do the asking.
Mr. TREADWELL: I would like to ask a question when you get through.
Mr. EPPLER: I simply want this man to answer the question. He says the chief steward wrote this manifest. His brother was not able to say so.
Mr. TREADWELL: You ask him question pretty quick, "write it." I don't believe he could do that. Why he said he saw writing, but

he didn't say he saw him write them. My impression is he hasn't mentioned the chief steward. I would like to have you ask that.

Mr. MOLER:

Q. You said the chief steward of the second cabin?
A. The steward, he appeared to have——
Q. Appeared to be superintending the other stewards?
A. Yes, sir.

Mr. TREADWELL: The question has been put into his mouth two or three times, not intentionally.

Mr. MOLER:

Is there anything further to ask him.
I think it's proper and right to have Mr. Junker testify in regard to the certificates he has made.

137 Mr. WILLIAM E. JUNKER, Chief of Statistical Division, Ellis Island, testified (sworn officer):

Mr. MOLER:

Q. You recognize this manifest do you?
A. I do.
Q. Now, on line thirteen, Peter Pearson, visit to Gouverneur, New York State, and on the lines coming under that, number fourteenth, Enoch Pearson, in column sixteen, left blank; and the name below that of John Wakefield, on line fifteen, the words "No address" are written. What is your interpretation, as Chief of the Division of Statistics, Immigration Bureau, Ellis Island, of the words "No address," following opposite to Gouverneur, New York.
A. My opinion is that this bracket applies to all three men, that they are going to visit Gouverneur, New York State.
Q. And by no particular address there, you mean, street and number?
A. Yes, sir.
Q. Is it the construction in your department, where words no address after a city or town are given, mean to imply?
A. No street or address.

Mr. PADDOCK: I think the manifest speaks for itself.
Mr. TREADWELL: I think so.

Q. Your construction is that the bracket covers the three names, Peter Pearson, Enoch Pearson and John Wakefield, is it?
A. Yes, sir.
Q. If this is so, why was the words "No address" repeated after the line on which Enoch Pearson's name appears and not upon John Wakefield?
A. I couldn't answer that. I didn't write it.
Q. If the brackets covered them all, what was the necessity of repeating the words "No address," on the line in which John Wakefield's name is written?
A. Well, I couldn't answer. Because I didn't write it.

Mr. TREADWELL: I make the proposition that the manifest speaks for itself. (Mr. Treadwell further stated he would present
138 his argument in writing before Board had reached its decision.)

Mr. MOLER: The case is closed for the present time.

(Relieved by Downing at 1:50.)

J. A. RYDER,
Secretary.

Copy.

EXHIBIT E.

Certificate as to Landing of Alien.

(To Accompany Application for Warrant of Arrest.)

Department of Commerce and Labor.
(Immigration Service.)

MARCH 30, 1904.

I hereby certify that I have examined the records of the immigrant station at Ellis Island, N. Y. Harbor, with reference to the landing or entry of Peter Pearson, an alien immigrant, and that the following facts relative to such landing or entry are disclosed by said records:

(1) Name of alien, Peter Pearson; age, 44 y.; sex, male.

(2) Native of England. Destination, "Visit to Gouverneur, N. Y. State" (F).

(3) Exact date and port of arrival in the United States, February 1st, 1904. New York.

(4) Name of vessel, "Etruria" (2nd cabin). (If alien arrived via Canada or Mexico, so state.)

(5) Country whence alien came, England.

(6) Whether inspected at time of arrival. Yes. (Held for S. ; Admitted later.)

(Signature) WM. E. JUNKER,
(Official title) *Chief of Statistical Div. F.*

139 Copy.

EXHIBIT F.

Certificate as to Landing of Alien.

(To Accompany Application for Warrant of Arrest.)

Department of Commerce and Labor.
(Immigration Service.)

MARCH 30, 1904.

I hereby certify that I have examined the records of the immigrant station at Ellis Island, N. Y. Harbor, with reference to the record of

the landing or entry of Enoch Pearson, an alien immigrant, and that the following facts relative to such landing or entry are disclosed by said records:

(1) Name of alien, Enoch Pearson; age, 34 yrs.; sex, male.

(2) Native of England. Destination, "Visit to Gouverneur, N. Y. State" (F).

(3) Exact date and port of arrival in the United States, February 1st, 1904. New York.

(4) Name of vessel, "Etruria" (2nd cabin).

(5) Country whence alien came, England.

(6) Whether inspected at time of arrival. Yes. (Held for S. I. Admitted later).

(Signature) WM. E. JUNKER.
(Official title) *Chief of Statistical Div. F.*

All other exhibits were copied in connection with minutes of previous hearing, i. e., March 29, 1904.

JOHN A. RYDER,
Secretary.

140 In the matter of Aliens PETER PEARSON, ENOCH PEARSON and JOHN WAKEFIELD.

STATE OF NEW YORK,
County of St. Lawrence, ss:

Auberon Stevens, being duly sworn, doth depose and say:

That he is a resident of Gouverneur, County of St. Lawrence, State of New York, and is thirty-three years old.

That he is and for some time past has been employed as head machinist in the factory of the International Lace Mfg. Co., at said Gouverneur, and has had charge of the hiring of men employed upon the looms in said factory.

That he knows Geo. A. Stevens, who has been in the employ of that company, having been employed by deponent. That the said Geo. A. Stevens was employed as a weaver in that company on or about December 30th, 1903, off and on until the 5th day of March, 1904. At the time the deponent employed the said Geo. A. Stevens he informed deponent that he had not been working a loom for some time, about a year, as deponent best recollects. That after he commenced to work in said lace mill at Gouverneur, he was frequently absent on account of his poor health. The particular dates deponent cannot recollect and did not keep a record of the same as he was working on piece work. That before he commenced to run the machine he requested the privilege of examining the machine in order to become familiar with it and its working, as he was out of practice.

Deponent further says that said Geo. A. Stevens was much below the average weaver and was therefore not capable of earning as much as the ordinary skilled weaver.

Deponent further says that said Geo. A. Stevens was last paid on

March 5th, 1904, at which time he stated to deponent that he
141 was sick; he had not been at work for three or four days previous to that time on account of sickness, as he stated. That a week or more after said March 5th, 1904, Geo. A. Stevens came to the mill and informed deponent that he would not work any more and would go back to his former residence, Patchogue, Long Island, as he felt sick and had to go home to recuperate. He was not discharged by said company, but left on his own accord.

Deponent further says that he knows William Wilson. That the said William Wilson was employed at the said factory of the International Lace Mfg. Co. as lace weaver upon a loom therein, having been employed as such weaver on or about December 9, 1903.

That on or about the 27th day of January, 1904, while said Wilson was working upon his loom it was broken and was repaired as soon as practicable. On the 8th of February said Wilson resumed his work, the said machine being then repaired.

That it is a rule of the factory that each employee working upon a loom works upon a special loom, and that whenever his loom is broken he is laid off until the loom he is working on is repaired. This rule applies to everyone employed in the factory working upon a loom. That this is the reason why the said Wilson was temporarily laid off for about ten days and until the loom he was at work on was repaired, when he resumed work.

A. STEVENS.

Subscribed and sworn to before me this 26th day of March, 1904.

GEORGE E. PIKE,
Notary Public.

[SEAL.]

142 In the Matter of Aliens PETER PEARSON, ENOCH PEARSON and JOHN WAKEFIELD.

STATE OF NEW YORK,
County of St. Lawrence, ss:

Joseph S. Lesser, being duly sworn, says:

That he is the President of the International Lace Mfg. Co., a company organized under the Laws of the State of New York, and having a factory at Gouverneur, in the County of St. Lawrence, State of New York.

That he has read what purports to be a copy of the evidence given before the Inspectors at the Special Inquiry held at Ellis Island, February 1st, 1904, and particularly the testimony of Peter Pearson, in the following questions and answers:

"Q. Were you invited by any person to come to this country?
A. Yes; if I said I had not been invited, I would be telling a lie.

Mr. EPPLER:

Q. Tell the truth, yes or not?
A. Yes.

Mr. MOLER:

Q. By whom?

A. A gentleman named Lesser."

In connection with this testimony I have this to say: I never invited the said Pearson or intended to invite the said Pearson to come to this country or to come to my employment, or to become an employee of any concern in which I was interested. I had known the said Pearson for over twenty years, and had occasionally seen him when visiting England in my business as a buyer of laces to import to this country. I knew the said Pearson as an inventor and owner of machines. The said Pearson came to me on my last trip to Nottingham in the month of November, 1903, and asked my advice in his business. He told me that business was slack there, and that he had made up his mind to sell out his machinery
143 and come to the United States. He asked me what prospect there was of employment there. I told him that there were opportunities for a skilled man such as I knew him to be. During the conversation he asked me whether I could give him employment, and I told him that I could not give him employment, that I had a man of his kind in my employment by the name of Camichael, but that if he ever came to America and I had need of a man of his kind I should be glad to obtain such services. I did not invite him in any way to come to America. I did not directly or indirectly attempt to influence him to decide whether he should come to America. I simply told him as a friend asking the advice in his place what I knew to be the fact of the business in this country: that there was plenty of employment for skilled men in the lace-making business.

I further say that I have read my affidavit taken before said William Scarlett March 11th, 1904. That said affidavit was prepared by said Scarlett on questions that he put to me and the answers that I made. That as regards the statement that "I advanced no money and paid no part of their passage money or transportation from Nottingham to Gouverneur," I understood the question that Mr. Scarlett put to me to refer to the passage money from Nottingham to this country only, and had no idea that he inquired about their passage from New York to Gouverneur, and did not intend to answer as to that. That the only answer I intended to give was as to the payment of their transportation from Nottingham to this country, and it was in answer to that question that I gave the testimony. I did not observe or know, when I signed the statement, that it embraced what might be termed their passage from New York to Gouverneur, and the insertion of the word "Gouverneur" in that affidavit was wholly unobserved by me. All my answers to Mr. Scarlett were intended to be strictly true.

144 I further say, that as regards the statement in my said affidavit that "I made no arrangement with men in New York whatever, but they came to Gouverneur and applied at the mill, my brother being in charge," the facts are that the company had heads to each department who hire and employ the persons working in said mill in their respective departments; what I did mean to say was

that I did not employ them but referred them to Mr. A. Stevens, who is overseer over the lace machines, and who is the one authorized to hire persons to work in his department; that Peter Pearson asked if he could be employed as corrector and reader, and I told him "No, we had such a man already, but that there might be an opening for an assistant overseer, and he could talk to said Overseer Stevens, and if he could be employed in that capacity it would be agreeable to me."

I further state that when I conversed with the men in New York I was convinced that if they went to Wilkesbarre, as they spoke of doing, that they would be likely to remain there, and as I wanted them to go to Gouverneur first, I stated to them that we would pay their expenses to go to Gouverneur, and if they did not find any employment there, we would also pay their return expenses to New York, which was the most direct route to Wilkesbarre.

I further say that the Company pays all its weavers what is known in this country as union wages, and the said aliens were employed by the Company at full union wages, although the Company's factory is not what is known as a union shop, the reason for this being as follows:

I have, in my private firm's business, been engaged in the importation of cotton laces for many years, which laces were chiefly manufactured in Nottingham, England. Less than two years ago I concluded to undertake to manufacture laces in this country
145 and give up importation. Together with about one hundred and fifty residents of Gouverneur who are interested in that place, a company was formed and capital subscribed to erect a factory and purchase machinery for making laces and lace curtains, which machinery is only to be obtained abroad. The principal inducement of the residents of Gouverneur who subscribed very largely to the undertaking was to obtain employment for such persons as lived in and about the town and secure their residence in the town and prevent their leaving to seek employment elsewhere. If the shop were made a union shop it would come under the union rule that only one apprentice could be employed to every seven machines, which means only one apprentice to fourteen men operators required for the seven machines. This would seriously restrict the employment of residents in Gouverneur, whereas, under the present system the Company is enabled to employ more residents of Gouverneur who are not as yet experienced hands but learning, and thus the purpose of the formation of the Company and the raising of the necessary capital is enabled to be carried out.

I further say that I make this affidavit at the request of the counsel for the said aliens and in their behalf.

JOSEPH S. LESSER.

Subscribed and sworn to before me this 28th day of March, 1904.

GEO. T. VAN VALKENBERG,
Notary Public, New York County.

(Endorsed:)—U. S. Circuit Court, Southern District of New York—In re Peter Pearson, Enoch Pearson and John Wakefield,
14—237

Petitioners.—Petition for *Habeas Corpus*.—Hoadly, Lauterbach & Johnson, Solicitors for Petitioners, 22 William St., New York City.—U. S. Circuit Court, Southern District of New York, Filed Apr. 21, 1904.—John A. Shields, Clerk.

146 The President of the United States of America to George B. Cortelyou, Secretary of the Department of Commerce and Labor of the United States, and to William Williams, Commissioner of Immigration of the Port of New York, Greeting:

We command you that you have the body of Peter Pearson, of Enoch Pearson, and of John Wakefield, by you imprisoned and detained, as it is said, together with the time and cause of such imprisonment and detention, by whatsoever name the said Peter Pearson, Enoch Pearson and John Wakefield shall be called or charged, before a Stated Term of the Circuit Court of the United States for the Southern District of New York, to be held in the Post Office Building, in the City and County and State of New York, on the 22d day of April, 1904, at 10:30 o'clock A. M., to do and receive what shall then and there be considered concerning said Peter Pearson, Enoch Pearson and John Wakefield, and have you then and there this writ.

Witness, Honorable Melville W. Fuller, Chief Justice of the United States, the 21st day of April, one thousand nine hundred and four.

JOHN A. SHIELDS, *Clerk.*

HOADLY, LAUTERBACH & JOHNSON,
Petitioners' Solicitors, No. 22 William Street, New York City.

Allowed:
E. HENRY LACOMBE,
U. S. Circuit Judge.

147 United States Circuit Court, Southern District of New York.

In the Matter of the Application of PETER PEARSON, ENOCH PEARSON and JOHN WAKEFIELD, for a Writ of *Habeas Corpus.*

UNITED STATES OF AMERICA,
Southern District of New York, State and County of New York, ss:

Harry A. Mendelson, being duly sworn, says:

That he is upwards of twenty-three years of age. That on the 21st day of April, 1904, at 12:30 P. M., at Ellis Island, in the said Southern District of New York, deponent served the annexed writ of *habeas corpus* upon William Williams, Commissioner of Immigration named therein, by exhibiting to him the annexed writ and leaving with him a copy thereof, together with a copy of the petition and all the papers upon which the said writ was granted, and now on file in the office of the Clerk of the Circuit Court of the United States for the Southern District of New York.

Deponent further says he knew the said person so served by him to be the said William Williams, Commissioner of Immigration of the Port of New York, named in the writ.

HARRY A. MENDELSON.

Sworn to before me this 21st day of April, 1904.

MARK J. KATZ,
Notary Public, N. Y. County.

[SEAL.]

148 (Endorsed)—U. S. Circuit Court, South. Dist. of New York.—In re Peter Pearson, Enoch Pearson and John Wakefield, aliens.—Original Writ of *Habeas Corpus* and Affidavit of Service.—Hoadly, Lauterbach & Johnson, Attorneys for aliens, 22 William Street, New York City. U. S. Circuit Court, Southern District of New York, filed May 12, 1904.—John A. Shields, Clerk.

The old act made the decision of the Board of Special Inquiry final, when adverse to the alien; the new act makes the decision final (except for appeal to Secretary of the Treasury), without any such qualification. The change is significant, and the unanimous decision of the Board in this case in favor of entry and against deportation should be taken as conclusive. The relators are discharged—order will be settled on notice so that the Commissioner may take an appeal if so advised.

E. H. LACOMBE,
U. S. C. J.

May 12, 1904.

149 *Return to Writ of Habeas Corpus.*

United States Circuit Court, Southern District of New York.

In the Matter of the Detention of PETER PEARSON, ENOCH PEARSON and JOHN WAKEFIELD.

STATE OF NEW YORK,
County of New York, ss:

William Williams, being duly sworn, deposes and says:

That he is the United States Commissioner of Immigration at the Port of New York; that as he is informed and believes, Peter Pearson, Enoch Pearson and John Wakefield are aliens and subjects of the Kingdom of Great Britain and Ireland; that said aliens arrived at the Port of New York from England on February 1, 1904, and upon arrival were detained at the Ellis Island immigrant station for examination as persons not clearly and beyond a doubt entitled to land in the United States; that on or about the first day of February, 1904, said aliens were examined by a Board of Special Inquiry duly constituted according to law, and were by the unanimous decision of said Board allowed to land in the United States.

That thereafter, on or about the twenty-third day of March, 1904, in pursuance of a warrant issued by the Secretary of Commerce and

Labor, dated March 21, 1904, a copy of which warrant is hereto annexed, said aliens were arrested in the town of Gouverneur, State of New York, by officers of the United States Immigration Department, and were taken before a Board of Special Inquiry at
150 the Ellis Island Immigration Station, and were allowed to submit such evidence as they desired tending to show why they should not be deported.

Deponent admits that the facts relating to the arrest of said aliens and to the hearings before the Board of Special Inquiry on March 29 and 30, 1904, are substantially as set forth in Articles numbered III., IV and V. of the petition of said aliens for a writ of *habeas corpus*, verified the twentieth day of April, 1904, and that the allegations relating to the examination of said aliens on their arrival at the Port of New York contained in paragraphs numbered VI. and VII. of said petition, are substantially true and correct, and that the various exhibits attached to said petition are true and correct copies thereof.

Deponent further says, upon information and belief, that the affidavits upon which the above mentioned warrant of arrest was issued, and copies of the minutes of the said hearings before the Board of Special Inquiry (Exhibits numbered 3 and 4 annexed to the said petition) were forwarded through the Commissioner-General of Immigration to the Secretary of Commerce and Labor, and that thereafter, on or about the 3d day of May, 1904, the Secretary of Commerce and Labor issued his certain warrant (a copy of which is hereto annexed and made a part of this return), directing that said aliens be deported to the country from whence they came, and that said aliens are now held by deponent in custody at Ellis Island Immigrant Station by virtue of said last mentioned warrant, pending their deportation to the country from whence they came, in accordance with the directions therein contained.

WM. WILLIAMS.

Sworn to before me this 5th day of May, 1904.

LAWRENCE P. LEE,
[SEAL.] *Notary Public, N. Y. Co.*

151 *Warrant—Arrest of Alien.*

United States of America, Department of Commerce and Labor.

No. 43563.

WASHINGTON, *March* 1, 1904.

To William Scarlett and Lewis Jenik, Ellis Island, N. Y. H.

Whereas, from evidence submitted to me, it appears that Peter Pearson, Enoch Pearson and John Wakefield, aliens who landed at the port of New York, N. Y., on the 1st day of February, 1904, have been found in the United States in violation of the Act of Congress approved March 3, 1903, to wit: Are alien contract laborers, I,

George B. Cortelyou, Secretary of Commerce and Labor, by virtue of the power and authority vested in me by the laws of the United States, do hereby command you to take into custody the said Peter Pearson, Enoch Pearson and John Wakefield, aliens, and convey them before the Board of Special Inquiry to enable them to show cause why they should not be deported in conformity with law.

For so doing, this shall be your sufficient warrant.

Witness my hand and seal this 21st day of March, 1904.

(Signed) GEO. B. CORTELYOU,
[SEAL.] *Secretary of Commerce and Labor.*
M. S. L.

152 *Warrant—Deportation of Alien.*

United States of America, Department of Commerce and Labor.

No. 43563.

To the Commissioner of Immigration, Ellis Island, New York Harbor.

Whereas, from proofs submitted to me, after due hearing before a Board of Special Inquiry and the Department, I have become satisfied that Peter Pearson, Enoch Pearson and John Wakefield, aliens who landed at the port of New York on the first day of February, 1904, are in this country in violation of the Acts of Congress approved February 26, 1885, February 23, 1887, March 3, 1891, and March 3, 1903; and whereas, the period of three years after landing has not elapsed:

I, George B. Cortelyou, Secretary of Commerce and Labor, by virtue of the power and authority vested in me by the laws of the United States, do hereby command you to return the said Peter Pearson, Enoch Pearson and John Wakefield, aliens, to the country whence they came, at the expense of the steamship company to which the "Etruria" belongs.

For so doing, this shall be your sufficient warrant.

Witness my hand and seal this third day of May, 1904.

GEO. B. CORTELYOU,
Secretary of Commerce and Labor.
F. P. S.

(Endorsed:)—United States Circuit Court, Southern District of New York.—In the Matter of the Detention of Peter Pearson, Enoch Pearson and John Wakefield.—Return of Writ of *Habeas Corpus*.—Robert A. Paddock, Counsel for Commissioner of Immigration, 49 Wall Street, Manhattan, New York.—U. S. Circuit Court, Southern District of New York, Filed May 12, 1904.—John A. Shields, Clerk.

153 United States Circuit Court, Southern District of New York.

UNITED STATES OF AMERICA, *ex Relation* of PETER PEARSON, ENOCH PEARSON and JOHN WAKEFIELD,

vs.

GEORGE B. CORTELYOU, Secretary of the Department of Commerce and Labor, and WILLIAM WILLIAMS, Commissioner of Immigration.

The answer of Peter Pearson, Enoch Pearson and John Wakefield to the return to the Writ of *Habeas Corpus*, heretofore made and filed herein by William Williams, Commissioner of Immigration of the Port of New York, respectfully shows:

(1) That although the warrant of arrest under which your relators were taken into custody purports to be a just and lawful warrant of the Secretary of the Department of Commerce and Labor having jurisdiction to issue the same; it is, nevertheless, wholly unlawful and void, for the reason that the Hon. George B. Cortelyou by whom the said warrant was issued had no jurisdiction or authority in law to issue the same, as appears fully and at large from the averments of the relators' petition herein, verified the 20th day of April, 1904, which is hereby referred to and made a part hereof, and that the averments show that the Hon. George B. Cortelyou, Secretary of the Department of Commerce and Labor, by whom said warrant of arrest was signed, had no jurisdiction to issue the same, for the reasons among others, that

154 (1) The said Secretary of the Department of Commerce and Labor had no jurisdiction whatsoever to arrest the said Peter Pearson, Enoch Pearson and John Wakefield, inasmuch as the said persons had already been duly and lawfully admitted as immigrants into the United States.

(2) That the said Secretary of the Department of Commerce and Labor was without jurisdiction to issue the said warrant, for the reason that no other charge or violation of any law of the United States existed or was made upon which said warrant might lawfully issue, except an alleged violation of the laws of the United States for which the said persons had already been once duly tried, acquitted and unanimously discharged by a Board of Special Inquiry having full authority in the premises under the laws of the United States to examine and pass upon said charge, and whose decision was, by the laws of the United States, final and not subject to review.

(3) That the proceedings before the Board of Special Inquiry appointed under and pursuant to the said warrant, was a nullity, because the same were wholly without jurisdiction in the premises under the law, either to review, set aside, or reverse the former decision of the duly constituted Board of Special Inquiry unanimously admitting the said relators.

(4) That although the warrant of deportation appears to be a just and lawful warrant of the Secretary of the Department of Commerce and Labor having jurisdiction to issue the same; it was and

is, nevertheless, wholly unlawful and void, for the reason that the said Secretary of the Department of Commerce and Labor, by whom said warrant was issued, was without jurisdiction or authority in law to issue the same, as appears fully and at large from the averments of the relators' petition herein; and that the averments show that the said Secretary of the Department of Commerce and Labor,

155 by whom said warrant of arrest was signed, had no jurisdiction to issue the same, for the reason, among others, that

(1) The said Secretary of the Department of Commerce and Labor had no jurisdiction whatsoever to arrest the said Peter Pearson, Enoch Pearson and John Wakefield, inasmuch as the said persons had already been duly and lawfully admitted as immigrants into the United States.

(2) That the said Secretary of the Department of Commerce and Labor was without jurisdiction to issue the said warrant, for the reason that no other charge or violation of any law of the United States existed or was made upon which said warrant might lawfully issue, except an alleged violation of the laws of the United States for which the said persons had already been once duly tried, acquitted and unanimously discharged by a Board of Special Inquiry, having full authority in the premises under laws of the United States to examine and pass upon said charge, and whose decision was, by the laws of the United States, final and not subject to review.

Wherefore, relators ask that the writ issued herein be sustained, and that they be discharged from custody.

HOADLY, LAUTERBACH & JOHNSON,
Attorneys for Relators.

Office & P. O. Address, No. 22 William Street, Borough of Manhattan, New York City.

156 UNITED STATES OF AMERICA,
State of New York, City and County of New York, ss.

Peter Pearson, Enoch Pearson and John Wakefield, the above-named relators, being duly and severally sworn, each for himself, does depose and say: that he has read the foregoing answer and knows the contents thereof; that the same is true of his own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters he believes it to be true.

PETER PEARSON.
ENOCH PEARSON.
JOHN WAKEFIELD.

Subscribed and sworn to before me this 6th day of May, 1904.

_____,
Notary Public, New York County.

(Endorsed:)—United States Circuit Court, Southern District of New York.—United States *ex rel.* Peter Pearson & ors. *vs.* George B. Cortelyou, Secretary of Dept. of Commerce and Labor, and William Williams, Commissioner.—Answer.—Hoadly, Lauterbach & John-

son, Attorneys for Relators, 22 William Street, New York City.—U. S. Circuit Court, Southern District of New York, Filed May 12, 1904. —John A. Shields, Clerk.

157 At a Stated Term of the Circuit Court of the United States of America, for the Southern District of New York, in the Second Circuit, held at the United States Court Rooms in the Borough of Manhattan, in the City of New York, on the 10th day of June, in the year of our Lord one thousand nine hundred and four.

Present: Hon. E. Henry Lacombe, Circuit Judge.

UNITED STATES *ex Rel.* PETER PEARSON, ENOCH PEARSON and JOHN WAKEFIELD,

against

WILLIAM WILLIAMS, Commissioner of Immigration, and GEORGE B. CORTELYOU, Secretary of the Department of Commerce and Labor.

Upon reading the petition of Peter Pearson, Enoch Pearson and John Wakefield, for a Writ of *Habeas Corpus*, verified April 20th, 1904, together with the exhibits thereto annexed, the affidavit of Eugene Treadwell, verified April 20th, 1904, all filed April 21st, 1904, and on reading and filing the Writ of *Habeas Corpus* herein issued on the 21st day of April, 1904, proof of service thereof on William Williams, Commissioner of Immigration, stipulation dated May 6th, 1904, together with exhibits thereto annexed, the return to the Writ of *Habeas Corpus* verified by the Commissioner of Immigration May 5th, 1904, together with the exhibits therein referred to and thereto annexed, the traverse verified May 6th, 1904,

158 and the said Peter Pearson, Enoch Pearson and John Wakefield having been produced in Court by the said Commissioner of Immigration, and the matter coming on to be heard by the Court, a motion for the discharge of the said Peter Pearson, Enoch Pearson and John Wakefield having been made, and after hearing Eugene Treadwell, Esq., of counsel, on behalf of the relators, and Robert A. Paddock, Esq., of counsel, on behalf of the Commissioner, the Court finds that the said relators are unlawfully restrained of their liberty, and it is now, on motion of Hoadly, Lauterbach & Johnson, attorneys for the relators,

Ordered, that the said Peter Pearson, Enoch Pearson and John Wakefield be forthwith discharged from the custody of the said Commissioner of Immigration, as aforesaid, and that they go hence without day.

E. H. LACOMBE,
U. S. Circuit Judge.

(Endorsed:)—Circuit Court of the U. S., Southern District of N. Y.—United States *ex Rel.* Peter Pearson, Enoch Pearson and John Wakefield, *vs.* William Williams and George B. Cortelyou.—Order. —Hoadly, Lauterbach & Johnson, Attorneys for Relator, 22 William Street, New York City.—Due service of a copy of the within is hereby

admitted. Dated June 8th, 1904. Robert A. Paddock, Attorney for Wm. Williams.—U. S. Circuit Court, Southern District of New York. Filed Jun. 10, 1904.—John A. Shields, Clerk.

159 At a Stated Term of the Circuit Court of the United States of America, for the Southern District of New York, in the Second Circuit, held at the United States Court Rooms in the Borough of Manhattan, in the City of New York, on Friday, the 6th day of May, in the year of our Lord one thousand nine hundred and four.

Present: The Honorable E. Henry Lacombe, Circuit Judge.

UNITED STATES *ex Rel.* PETER PEARSON, ENOCH PEARSON and JOHN WAKEFIELD,
against
The Commissioner of Immigration, WILLIAM WILLIAMS.

A writ of *habeas corpus* having been issued herein, requiring the relators Peter Pearson, Enoch Pearson and John Wakefield to be brought before the Court, and a return thereto having been made and filed and the return having been traversed and the relators having been produced in Court and counsel for the relators having moved for their discharge, and counsel for the Commissioner opposing, the Court having taken the matter into consideration and on application of counsel for the relators that the relators be admitted to bail pending the hearing and decision of the Court and further proceedings on the matter in this Court,

Ordered, that the relators Peter Pearson, Enoch Pearson and John Wakefield be admitted to bail in the sum of one thousand dollars each before John A. Shields, U. S. Commissioner, pending the
160 decision of this motion and further proceedings in this Court, including the entry of an order thereon.

E. H. LACOMBE,
U. S. Circuit Judge.

Form approved.
ROBERT A. PADDOCK,
Atty. for Wm. Williams, Commissioner of Immigration.

(Endorsed:)—U. S. Circuit Court, Southern District of New York. Filed May 6, 1904.—John A. Shields, Clerk.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

Be it remembered, that on the 7th day of May, 1904, before me, John A. Shields, United States Commissioner, personally came John Wakefield, Principal, and Joseph S. Lesser, Surety, and severally acknowledged themselves indebted to the United States of America in the sum of One thousand dollars ($1,000) separately to be levied and made on their respective goods, chattels, lands and tenements to the United States, if default shall be made in the condition following, to wit:

Whereas, the said John Wakefield is detained in custody of

William Williams, as United States Commissioner of Immigration at the port of New York, under warrant for his deportation issued by George B. Cortelyou, Secretary of the Department of Commerce and Labor, dated May 3d, 1904, and

Whereas, the said John Wakefield made an application to the United States Circuit Court, before the Honorable E. Henry Lacombe, on the 21st day of April, 1904, for a writ of *habeas corpus*,
161 directing the said William Williams and requiring him to produce said John Wakefield before said Circuit Court together with the true cause of his detention, and

Whereas, on the 6th day of May, 1904, said William Williams produced said John Wakefield before the United States Circuit Court for the Southern District of New York, and made a return to said writ, and the matter coming on for hearing before the Court and application being made for admission to bail pending the decision by the Court, and an order having been made dated the 6th day of May, 1904, admitting the said John Wakefield to bail in the sum of One Thousand dollars ($1,000) pending the decision of the Court and until the entry of an order thereon.

Now, therefore, the condition of this obligation is such, that if the said John Wakefield shall duly personally appear in the United States Circuit Court to answer the exigency and determination of said motion and personally abide the final decision and determination of said Court and abide and obey the orders of the said Court, and upon entry of said orders, then this recognizance to be void, otherwise to be and remain in full force and virtue.

JOHN WAKEFIELD. [SEAL.]
JOSEPH S. LESSER. [SEAL.]

Taken and acknowledged before me this 7th day of May, 1904.
JOHN A. SHIELDS,
U. S. Commissioner, S. D. N. Y.

Approved as to form and sufficiency.
R. A. PADDOCK,
Attorney for Wm. Williams.

162 SOUTHERN DISTRICT OF NEW YORK:

Joseph S. Lesser, of No. 20 East 20th St., in the City of New York, being duly sworn, deposes and says:

That he is worth the sum of two thousand dollars ($2,000) over and above all his just debts and liabilities.

JOSEPH S. LESSER.

Sworn to before me this 7th day of May, A. D., 1904.
JOHN A. SHIELDS,
U. S. Commissioner for the Southern District of New York.

(Endorsed:)—United States Circuit Court, Southern Dist. of New York.—United States of America *ex Rel.* Peter Pearson, Enoch Pearson and John Wakefield, *agst.* William Williams, Commissioner

of Immigration.—Bail Bond of John Wakefield.—Hoadly, Lauterbach & Johnson, Attorneys for Relators, 22 William Street, New York City.—U. S. Circuit Court, Southern District of New York. Filed May 7, 1904.—John A. Shields, Clerk.

163 UNITED STATES OF AMERICA,
Southern District of New York, ss:

Be it remembered, that on the 7th day of May, 1904, before me, John A. Shields, United States Commissioner, personally came Peter Pearson, Principal, and Joseph S. Lesser, Surety, and severally acknowledged themselves indebted to the United States of America in the sum of One thousand dollars ($1,000) separately to be levied and made on their respective goods, chattels, lands and tenements to the United States, if default shall be made in the condition following, to wit:

Whereas, the said Peter Pearson is detained in custody of William Williams, as United States Commissioner of Immigration at the port of New York, under warrant for his deportation issued by George B. Cortelyou, Secretary of the Department of Commerce and Labor, dated May 3d, 1904; and

Whereas, the said Peter Pearson made an application to the United States Circuit Court, before the Honorable E. Henry Lacombe, on the 21st day of April, 1904, for a writ of *habeas corpus*, directing the said William Williams and requiring him to produce said Peter Pearson before said Circuit Court together with the true cause of his detention; and

Whereas, on the 6th day of May, 1904, said William Williams produced said Peter Pearson before the United States Circuit Court for the Southern District of New York, and made a return to said writ, and the matter coming on for hearing before the Court, and application being made for admission to bail pending the decision by the Court, and an order having been made, dated the 6th day of May, 1904, admitting the said Peter Pearson to bail in the sum of One thousand dollars ($1,000) pending the decision of the Court and until the entry of an order thereon.

164 Now, therefore, the condition of this obligation is such, that if the said Peter Pearson shall duly personally appear in the United States Circuit Court to answer the exigency and determination of said motion and personally abide the final decision and determination of said Court and abide and obey the orders of the said Court, and upon entry of said orders, then this recognizance to be void, otherwise to be and remain in full force and virtue.

PETER PEARSON. [SEAL.]
JOSEPH S. LESSER. [SEAL.]

Taken and acknowledged before me this 7th day of May, 1904.
JOHN A. SHIELDS,
U. S. Commissioner, S. D. N. Y.

Approved as to form and sufficiency.
R. A. PADDOCK,
Atty. for Wm. Williams.

SOUTHERN DISTRICT OF NEW YORK:

Joseph S. Lesser, of No. 20 East 20th Street, in the City of New York, being duly sworn, deposes and says:

That he is worth the sum of two thousand dollars ($2,000) over and above all his just debts and liabilities.

JOSEPH S. LESSER.

Sworn to 7th day of May, A. D., 1904, before me.

JOHN A. SHIELDS,
U. S. Commissioner for the Southern District of New York.

165 (Endorsed:)—United States Circuit Court, Southern Dist. of New York.—United States of America *ex Rel.* Peter Pearson, Enoch Pearson and John Wakefield, *agst.* William Williams, Commissioner of Immigration. Bail Bond for Peter Pearson.—Hoadley, Lauterbach and Johnson, Attorneys for Relators, 22 William Street, New York City.—U. S. Circuit Court, Southern District of New York, Filed May 7, 1904.—John A. Shields, Clerk.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

Be it remembered, that on the 7th day of May, 1904, before me, John A. Shields, United States Commissioner, personally came Enoch Pearson, Principal, and Joseph S. Lesser, Surety, and severally acknowledged themselves indebted to the United States of America in the sum of one thousand dollars ($1,000), separately to be levied and made on their respective goods, chattels, lands and tenements to the United States, if default shall be made in the condition following, to wit:

Whereas, the said Enoch Pearson is detained in custody of William Williams, as United States Commissioner of Immigration at the Port of New York, under warrant for his deportation issued by George B. Cortelyou, Secretary of the Depar-ment of Commerce and Labor, dated May 3rd, 1904; and

Whereas, the said Enoch Pearson made an application to the United States Circuit Court, before the Honorable E. Henry Lacombe, on the 21st day of April, 1904, for a writ of *habeas corpus*, directing the said William Williams and requiring him to produce said Enoch Pearson before said Circuit Court, together with the true cause of his detention; and

Whereas, on the 6th day of May, 1904, said William
166 Williams produced said Enoch Pearson before the United States Circuit Court for the Southern District of New York and made a return to said writ, and the matter coming on for hearing before the Court and application being made for admission to bail pending the decision by the Court, and an order having been made, dated the 6th day of May, 1904, admitting the said Enoch Pearson to bail in the sum of one thousand dollars ($1,000) pending the decision of the Court and until the entry of an order thereon.

Now, therefore, the condition of this obligation is such, that if the

said Enoch Pearson shall duly personally appear in the United States Circuit Court to answer the exigency and determination of said motion and personally abide the final decision and determination of said Court and abide and obey the orders of the said Court and upon entry of said orders, then this recognizance to be void, otherwise to be and remain in full force and virtue.

ENOCH PERSON. [SEAL].
JOSEPH S. LESSER [SEAL].

Taken and acknowledged before me this 7th day of May, 1904.
JOHN A. SHIELDS,
U. S. Commissioner, S. D. N. Y.

Approved as to form and sufficiency.
R. A. PADDOCK,
Atty. for Wm. Williams.

167 SOUTHERN DISTRICT OF NEW YORK.

Joseph S. Lesser, of No. 20 East 20th Street, in the City of New York, being duly sworn, deposes and says that he is worth the sum of two thousand dollars ($2,000) over and above all his just debts and liabilities.

JOSEPH S. LESSER.

Sworn to this 7th day of May, 1904 A. D.
JOHN A. SHIELDS,
U. S. Commissioner for the Southern District of New York.

(Endorsed:) United States Circuit Court, Southern District of New York.—United States of America *ex rel.* Peter Pearson and Enoch Pearson and John Wakefield *agst.* William Williams, Commissioner of Immigration.—Bail Bond of Enoch Pearson.—Hoadly, Lauterbach & Johnson, Attorneys for Relators, 22 William Street, New York City.—U. S. Circuit Court, Southern District of New York, Filed May 7, 1904.—John A. Shields, Clerk.

168 UNITED STATES CIRCUIT COURT,
Southern District of New York.

UNITED STATES OF AMERICA, *ex Relation* of PETER PEARSON, ENOCH PEARSON and JOHN WAKEFIELD,
vs.
GEORGE B. CORTELYOU, Secretary of the Department of Commerce and Labor, and WILLIAM WILLIAMS, Commissioner of Immigration.

It is stipulated that the annexed communications, signed by George B. Cortelyou, Secretary of the Department of Commerce and Labor, dated May 3rd, 1904, being a letter of the Commissioner of Immigration, addressed to Hoadly, Lauterbach & Johnson, attorneys for the relators, enclosing a copy of a letter of the same date, ad-

dressed to the Commissioner of Immigration, Ellis Island, are genuine communications from the Secretary of the Department of Commerce and Labor.

Dated New York, May 6th, 1904.

ROBERT A. PADDOCK,
Attorney for Commissioner of Immigration.
HOADLY, LAUTERBACH & JOHNSON,
Attorneys for Relators.

169 EXHIBIT 6.

Department of Commerce and Labor, Office of the Secretary.

No. 43,563.

WASHINGTON, *May* 3, 1904.

Commissioner of Immigration, Ellis Island, New York Harbor.

SIR: Accompanying your letter of the 7th ultimo, No. 22,453 there was received by the Department the record of the hearings before the Board of Special Inquiry in the cases of Peter and Enoch Pearson and John Wakefield, who had theretofore been arrested upon warrants charging them with being unlawfully in the United States.

The said aliens had arrived at your port per steamship "Etruria" on February 1, 1904. They were on preliminary hearing before the Board of Special Inquiry excluded, but on appeal were permitted to land on their sworn testimony that they did not intend to proceed to Gouverneur but to Wilkesbarre, Penn. Immediately on being landed they proceeded directly to Gouverneur and engaged as operatives in the mills of the International Lace Manufacturing Company. Information was on file here that this was their plan, and their prompt action in going to Gouverneur, in the face of their sworn statement, removed the last reasonable doubt as to their migration to the United States having been induced in plain violation of law. Warrants were immediately issued for their arrest, directing that they be given a full hearing before a Board of Special Inquiry at your port, acording to due process of law, as to their right to remain in this country.

The evidence in this case was not all submitted until yesterday, May 2nd.

170 The Department has given the complete record a very close and painstaking study, has considered carefully both the written and oral arguments, and finds that:

1. Peter Pearson, and Enoch Pearson, his brother, and also John Wakefield, are all here in violation of law, and should therefore be deported.

2. That the point raised by the International Lace Company that

"Skilled labor of like kind unemployed cannot be found in this country,"

is not maintained. In fact, from the evidence submitted, the very opposite is true.

You will, therefore, execute the order of deportation, in accordance with law, taking cognizance, however, of any proceedings which have in the meantime been started in the courts.

Very respectfully,

GEORGE B. CORTELYOU, *Secretary.*

F. P. S.

171 Department of Commerce and Labor.

Office of the Secretary.

Washington.

MAY 3, 1904.

Hoadly, Lauterbach & Johnson, 22 William Street, New York City.

GENTLEMEN: The decision of the Department this day rendered is adverse to Peter Pearson and Enoch Pearson, his brother, and John Wakefield, remaining in the United States. Copy of opinion inclosed.

Very respectfully, GEO. B. CORTELYOU,

Secretary.

(Endorsed:)—United States Circuit Court, Southern District of New York.—United States of America, *ex relation* of Peter Pearson, Enoch Pearson and John Wakefield *vs.* George B. Cortelyou, Secy. of the Dept. Commerce and Labor, and William Williams, Commissioner of Immigration.—Stipulation and Exhibit 6.—Hoadly, Lauterbach & Johnson, Attorneys for Relators, 22 William St., New York.—U. S. Circuit Court, Southern District of New York, Filed May 12, 1904.—John A. Shields, Clerk.

172 United States Circuit Court of Appeals for the Second Circuit.

UNITED STATES OF AMERICA *ex Rel.* PETER PEARSON, ENOCH PEARSON and JOHN WAKEFIELD

against

WILLIAM WILLIAMS, United States Commissioner of Immigration.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Know all men by these presents, that we, Enoch Pearson, as principal, and Joseph S. Lesser, as surety, are held and firmly bound unto the United States of America in the sum of one thousand dollars, to be paid to said United States of America, to which payment, well and truly to be made, we bind ourselves and each of us, our heirs, executors, and administrators, jointly and severally, by these presents.

Sealed with our seals.

Dated this 22d day of June, 1904.

Whereas, the said Enoch Pearson was detained in custody of the above named United States Commissioner of Immigration at the port of New York, under a warrant for his deportation, dated May

3d, 1904, issued by the Secretary of the Department of Commerce and Labor; and

Whereas, by an order of the United States Circuit Court for the Southern District of New York, made on or about June 10th, 1904, the said Enoch Pearson was held to have been unlawfully restrained of his liberty, and was discharged from the custody of said
173 Commissioner of Immigration; and

Whereas, the above named Commissioner of Immigration, acting on behalf of the United States of America, has appealed from said order to the United States Circuit Court of Appeals for the Second Circuit, to reverse said order; and

Whereas, by the order of the said United States Circuit Court, made on or about June 10th, 1904, allowing said appeal, it was ordered that pending the final determination of this appeal, the said Enoch Pearson be admitted to bail in the sum of one thousand dollars, to hold himself amenable to the final order or judgment herein.

Now, therefore, the condition of this obligation is such, that if the above named Enoch Pearson shall personally appear in the United States Circuit Court for the Southern District of New York, to abide the final decision and determination of the said Appellate Court, or of the United States Supreme Court, should the matter be taken to that Court, and obey the final order or judgment herein of the Appellate Court, then the above obligation shall be void, otherwise to remain in full force and virtue.

ENOCH PEARSON [SEAL].
JOSEPH S. LESSER [SEAL].

Taken and acknowledged before me this 22d day of June, 1904.
[SEAL] GEORGE E. PIKE,
Notary Public.

Taken and acknowledged before me this 21st day of June, 1904, as to Joseph S. Lesser.
[SEAL] JOHN A. SHIELDS,
U. S. Commissioner, S. D. N. Y.

174 SOUTHERN DISTRICT OF NEW YORK, *ss:*

Joseph S. Lesser, above-named, being duly sworn, deposes and says:

That he resides at 308 West 88th St., in the City of New York, Manhattan; that he is worth the sum of two thousand dollars over and above all his debts and liabilities.

JOSEPH S. LESSER.

Sworn to before me this 21st day of June, 1904.
[SEAL] JOHN A. SHIELDS,
U. S. Commissioner, S. D. N. Y.

STATE OF NEW YORK, *St. Lawrence County, ss:*

On this 22d day of June, A. D., 1904, before me personally appeared Enoch Pearson, to me known to be the same person described

in and who executed the foregoing instrument, and he duly acknowledged the execution thereof.

Witness my hand and official seal the day and year above written.

[SEAL] GEORGE E. PIKE,
Notary Public.

(Endorsed:)—United States Circuit Court, Southern District of New York.—United States of America, *ex rel.* Peter Pearson, Enoch Pearson and John Wakefield against William Williams, Commissioner of Immigration. Bail Bond for Enoch Pearson.—Robert A. Paddock, Atty. for Commissioner, 49 Wall Street, Manhattan, New York.—U. S. Circuit Court, Southern District of New York, Filed Jul. 21, 1904.—John A. Shields, Clerk.

175 United States Circuit Court of Appeals for the Second Circuit.

UNITED STATES OF AMERICA *ex Rel.* PETER PEARSON, ENOCH PEARSON and JOHN WAKEFIELD
against
WILLIAM WILLIAMS, United States Commissioner of Immigration.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Know all men by these presents, that we, John Wakefield, as principal, and Joseph S. Lesser, as surety, are held and firmly bound unto the United States of America in the sum of one thousand dollars, to be paid the said United States of America, to which payment, well and truly to be made, we bind ourselves and each of us, our heirs, executors and administrators, jointly and severally, by these presents.

Sealed with our seals.

Dated this 22d day of June, 1904.

Whereas, the said John Wakefield was detained in custody of the above named United States Commissioner of Immigration at the port of New York, under a warrant for his deportation, dated May 3d, 1904, issued by the Secretary of the Department of Commerce and Labor; and

Whereas, by an order of the United States Circuit Court for the Southern District of New York, made on or about June 10th, 1904, the said John Wakefield was held to have been unlawfully restrained of his liberty, and was discharged from the custody of said
176 Commissioner of Immigration; and

Whereas, the above-named Commissioner of Immigration, acting on behalf of the United States of America, has appealed from said order to the United States Circuit Court of Appeals for the Second Circuit, to reverse said order; and

Whereas, by the order of the said United States Circuit Court, made on or about June 10th, 1904, allowing said appeal, it was ordered that pending the final determination of this appeal, the said John Wakefield be admitted to bail in the sum of one thousand dol-

lars, to hold himself amenable to the final order or judgment herein.

Now, therefore, the condition of this obligation is such, that if the above named John Wakefield shall personally appear in the United States Circuit Court for the Southern District of New York, to abide the final decision and determination of the said Appellate Court, or of the United States Supreme Court, should the matter be taken to that Court, and obey the final order or judgment herein of the Appellate Court, then the above obligation shall be void, otherwise to remain in full force and virtue.

JOHN WAKEFIELD [SEAL].
JOSEPH S. LESSER [SEAL].

Taken and acknowledged before me this 22d day of June, 1904.
[SEAL] GEORGE E. PIKE,
Notary Public.

Taken and acknowledged before me this 21st day of June, 1904, as to Joseph S. Lesser.
[SEAL] JOHN A. SHIELDS,
U. S. Commissioner, S. D. N. Y.

177 SOUTHERN DISTRICT OF NEW YORK, *ss*

Joseph S. Lesser, above-named, being duly sworn, deposes and says:

That he resides at 308 West 88th St., in the City of New York, Manhattan, that he is worth the sum of two thousand dollars over and above all his debts and liabilities.

JOSEPH S. LESSER.

Sworn to before me this 21st day of June, 1904.
[SEAL] JOHN A. SHIELDS,
United States Commissioner, S. D. N. Y.

STATE OF NEW YORK, *St. Lawrence County, ss:*

On this 22d day of June, A. D. 1904, before me personally appeared John Wakefield, to me known to be the same person described in and who executed the foregoing instrument, and he duly acknowledged the execution thereof.

Witness my hand and official seal the day and year above written.
[SEAL] GEORGE E. PIKE,
Notary Public.

(Endorsed:)—United States Circuit Court, Southern District of New York.—United States of America *ex rel.* Peter Pearson, Enoch Pearson and John Wakefield against William Williams, Commissioner of Immigration.—Bail Bond of John Wakefield.—Robert A. Paddock, Atty. for Commissioner, 49 Wall Street, Manhattan, New York.—U. S. Circuit Court, Southern District of New York, Filed Jul. 21, 1904.—John A. Shields, Clerk.

178 United States Circuit Court of Appeals for the Second Circuit.

UNITED STATES OF AMERICA *ex Rel.* PETER PEARSON, ENOCH PEARSON and JOHN WAKEFIELD
against
WILLIAM WILLIAMS, United States Commissioner of Immigration.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Know all men by these presents, that we Peter Pearson, as principal, and Joseph S. Lesser, as surety, are held and firmly bound unto the United States of America in the sum of one thousand dollars, to be paid to said United States of America, to which payment, well and truly to be made, we bind ourselves and each of us, our heirs, executors, and administrators, jointly and severally, by these presents.

Sealed with our seals.

Dated this 22nd day of June, 1904.

Whereas, the said Peter Pearson was detained in custody of the above named United States Commissioner of Immigration at the port of New York, under a warrant for his deportation, dated May 3rd, 1904, issued by the Secretary of the Department of Commerce and Labor; and

Whereas, by an order of the United States Circuit Court for the Southern District of New York, made on or about June 10th, 1904, the said Peter Pearson was held to have been unlawfully restrained of his liberty, and was discharged from the custody of said
179 Commissioner of Immigration; and

Whereas, the above named Commissioner of Immigration, acting on behalf of the United States of America, has appealed from said order to the United States Circuit Court of Appeals for the Second Circuit, to reverse said order; and

Whereas, by the order of the said United States Circuit Court, made on or about June 10th, 1904, allowing said appeal, it was ordered that pending the final determination of this appeal, the said Peter Pearson be admitted to bail in the sum of one thousand dollars, to hold himself amenable to the final order or judgment herein.

Now, therefore, the condition of this obligation is such, that if the above named Peter Pearson shall personally appear in the United States Circuit Court for the Southern District of New York, to abide the final decision and determination of the said Appellate Court, or of the United States Supreme Court, should the matter be taken to that court, and obey the final order or judgment herein of the Appellate Court, then the above obligation shall be void, otherwise to remain in full force and virtue.

PETER PEARSON [SEAL].
JOSEPH S. LESSER [SEAL].

Taken and acknowledged before me this 22nd day of June, 1904.
[SEAL] GEORGE E. PIKE,
Notary Public.

Taken and acknowledged before me this 21st day of June, 1904, as to Joseph S. Lesser.

[SEAL] JOHN A. SHIELDS,
U. S. Commissioner, S. D. N. Y.

180 SOUTHERN DISTRICT OF NEW YORK, *ss:*

Joseph S. Lesser, above named, being duly sworn, deposes and says, that he resides at 308 West 88th St., in the City of New York, Manhattan; that he is worth the sum of two thousand dollars over and above all his debts and liabilities.

JOSEPH S. LESSER.

Sworn to before me this 21st day of June, 1904.

[SEAL] JOHN A. SHIELDS,
U. S. Commissioner, S. D. N. Y.

STATE OF NEW YORK, *St. Lawrence County, ss:*

On this 22nd day of June, A. D. 1904, before me personally appeared Peter Pearson, to me known to be the same person described in and who executed the foregoing instrument, and he duly acknowledged the execution thereof.

Witness my hand and official seal the day and year aforesaid.

[SEAL] GEORGE E. PIKE,
Notary Public.

(Endorsed:)—United States Circuit Court, Southern District of New York.—United States of America *ex rel.* Peter Pearson, Enoch Pearson and John Wakefield against William Williams, Commissioner of Immigration.—Bail Bond of Peter Pearson.—Robert A. Paddock, Atty. for Commissioner, 49 Wall Street, Manhattan, New York.—U. S. Circuit Court, Southern District of New York, Filed Jul. 21, 1904.—John A. Shields, Clerk.

181 *Petition for Leave to Appeal.*

United States Circuit Court, Southern District of New York.

UNITED STATES OF AMERICA *ex Rel.* PETER PEARSON, ENOCH PEARSON and JOHN WAKEFIELD
against
WILLIAM WILLIAMS, Commissioner of Immigration.

To the Honorable E. Henry Lacombe, Judge, United States Circuit Court, Second Circuit, Southern District of New York.

Your petitioner, William Williams, United States Commissioner of Immigration at the Port of New York, respondent in the above entitled proceeding, feeling himself aggrieved by the order and judgment made and entered in the above entitled proceeding, on

or about the 10th day of June, 1904, wherein and whereby it was ordered that the said Peter Pearson, Enoch Pearson and John Wakefield be discharged from the custody of your petitioner as such United States Commissioner of Immigration aforesaid, acting under instructions of the Department of Commerce and Labor of the United States, on behalf of the United States, comes now by his attorney, Robert A. Paddock, and petitions this court for an order allowing him, the said petitioner, to prosecute an appeal from said order and judgment to the United States Circuit Court of Appeals for the Second Circuit, under and in accordance with the laws of the United States in that — above made and provided, and files herewith an assignment of errors; and the said petitioner further prays that no bond on appeal be required of appellant herein, and that

182 a transcript of the record, proceedings and papers in this matter, duly authenticated, may be sent to the United States Circuit Court of Appeals for the Second Circuit, and that pending this appeal herein the said Peter Pearson, Enoch Pearson and John Wakefield be admitted to bail in the sum of one thousand dollars each, to hold themselves amenable to the final order or judgment herein.

And your petitioner will ever pray.

Dated New York, June 10, 1904.

ROBERT A. PADDOCK,

Attorney for William Williams, United States Commissioner of Immigration at the Port of New York, 49 Wall Street, Manhattan, New York City.

Appeal allowed.
June 10, 1904.

E. H. LACOMBE,
U. S. Circuit Judge.

(Endorsed:)—United States Circuit Court, Southern District of New York.—United States of America *ex rel.* Peter Pearson, Enoch Pearson and John Wakefield against William Williams, Commissioner of Immigration.—Petition for Leave to Appeal.—Robert A. Paddock, Atty. for Commissioner, 49 Wall Street, Manhattan, New York.—A copy this day received, Jun. 10, 1904. Hoadley, Lauterbach & Johnson.—U. S. Circuit Court, Southern District of New York, Filed Jun. 10, 1904.—John A. Shields, Clerk.

183 At a Stated Term of the Circuit Court of the United States for the Southern District of New York, held at the Court House in the Post Office Building, in the Borough of Manhattan, City of New York, on the 10th day of June, 1904.

Present: Honorable E. Henry Lacombe, Judge, United States Circuit Court, Second Circuit, Southern District of New York.

UNITED STATES OF AMERICA *ex Rel.* PETER PEARSON, ENOCH PEARSON and JOHN WAKEFIELD
against
WILLIAM WILLIAMS, Commissioner of Immigration.

On reading and filing the petition of William Williams, for an order allowing an appeal herein to the United States Circuit Court of Appeals for the Second Circuit, and the Assignment of Errors filed with said petition, on motion of Robert A. Paddock, attorney for said petitioner, it is

Ordered, that an appeal to the United States Circuit Court of Appeals for the Second Circuit, from the final order or judgment herein made, entered and filed on the 10th day of June, 1904, be and the same hereby is allowed, and that no bond on appeal be required of the appellant herein, and that a transcript of the records, proceedings and papers upon which said order and judgment was entered be forthwith transmitted to the United States Circuit Court for the Second Circuit; and it is

184 Further Ordered, that pending the final determination of this appeal the relators, Peter Pearson, Enoch Pearson and John Wakefield, be admitted to bail in the sum of one thousand dollars each, to hold themselves amenable to the final order or judgment herein.

E. H. LACOMBE,
United States Circuit Judge.

(Endorsed:)—United States Circuit Court, Southern District of New York.—United States of America *ex rel.* Peter Pearson, Enoch Pearson and John Wakefield against William Williams, Commissioner of Immigration.—Order for Appeal.—Robert A. Paddock, Attorney for Commissioner, 49 Wall Street, Manhattan, New York City.—A copy this day received, Jun. 10, 1904. Headley, Lauterbach & Johnson.—U. S. Circuit Court, Southern District of New York, Filed Jun. 10, 1904.—John A. Shields, Clerk.

185 Circuit Court of the United States, Southern District of New York.

UNITED STATES *ex Rel.* PETER PEARSON, ENOCH PEARSON and JOHN WAKEFIELD.
against
WILLIAM WILLIAMS, United States Commissioner of Immigration.

Assignment of Errors.

William Williams, United States Commissioner of Immigration at the port of New York, respondent in the above-entitled proceeding, in connection with his petition for leave to appeal to the United States Circuit Court of Appeals, makes the following assignment of errors, which he avers occurred herein:

First. That the court erred in deciding that the unanimous decision of the Board of Special Inquiry allowing the above-named Peter Pearson, Enoch Pearson and John Wakefield to land, is conclusive or *res adjudicata* upon their right to remain in the United States.

Second. That the court erred in not holding that the said Peter Pearson, Enoch Pearson and John Wakefield entered the United States subject to the condition that they might be deported by order of the Secretary of Commerce and Labor, if within the limited period after arrival they were found to have been wrongfully allowed to land or had entered the United States in violation of law.

Third. That the court erred in holding that the warrant of the Secretary of Commerce and Labor set forth in the return,
186 dated May 3, 1904, was invalid and without authority in law, because of the unanimous decision of the Board of Special Inquiry of February 1, 1904, allowing said persons to land.

Fourth. That the court erred in reviewing the action of the Secretary of Commerce and Labor directing the expulsion of said persons, as set forth in his warrant for their deportation, dated May 3, 1904, and in not deciding that said warrant is valid and conclusive on the court.

Fifth. That the court erred in not dismissing the writ of *habeas corpus* herein and in not remanding the said Peter Pearson, Enoch Pearson and John Wakefield to the custody of the Commissioner of Immigration at the port of New York.

Sixth. That the court erred in deciding that Peter Pearson, Enoch Pearson and John Wakefield were unlawfully restrained of their liberty, and in discharging said Peter Pearson, Enoch Pearson and John Wakefield from custody, and in adjudging that they are lawfully entitled to remain in the United States.

In order that the foregoing assignment of errors may be and appear of record, this respondent presents the same to the court and prays that such disposition may be made thereof as in accordance with law and statutes of the United States in such cases made and provided, and respondent prays a reversal of the order entered herein May, 1904, and that the said writ of *habeas corpus* be dismissed.

Dated 10 June, 1904.

ROBERT A. PADDOCK,

Attorney for United States Commissioner of Immigration at the Port of New York, 49 Wall Street, Manhattan, New York.

(Endorsed:)—Circuit Court of the United States, Southern District of New York.—United States *ex rel.* Peter Pearson,
187 Enoch Pearson and John Wakefield against William Williams, United States Commissioner of Immigration at the Port of New York.—Assignment of Errors.—Robert A. Paddock, Atty. for Commissioner, 49 Wall Street, Manhattan, New York City. —U. S. Circuit Court, Southern District of New York. Filed Jun. 10, 1904.—John A. Shields, Clerk.

By the Honorable E. Henry Lacombe, one of the Judges of the Circuit Court of the United States for the Southern District of New York, in the Second Circuit.

To Peter Pearson, Enoch Pearson and John Wakefield, *Greeting:*

You are hereby cited and admonished to be and appear before a United States Circuit Court of Appeals for the Second Circuit, to be holden at the Borough of Manhattan, in the City of New York, in the District and Circuit above named, on the 12th day of July, 1904, pursuant to an appeal filed in the Clerk's Office of the Circuit Court of the United States for the Southern District of New York, wherein William Williams, United States Commissioner of Immigration at the Port of New York, is appellant and you are appellees, to show cause, if any there be, why the judgment or order in said appeal mentioned should not be corrected and speedy justice should not be done in that behalf.

Given under my hand at the Borough of Manhattan, in the City of New York, in the District and Circuit above named, this 10th day of June, in the year of our Lord one thousand nine hundred and four, and of the Independence of these United States the one hundred and twenty-ninth.

E. H. LACOMBE,
Judge of the Circuit Court of the United States for the Southern District of New York, in the Second Circuit.

188 (Endorsed:)—United States Circuit Court of Appeals, Second Circuit.—United States of America, *ex rel.* Peter Pearson, Enoch Pearson and John Wakefield, *vs.* William Williams, Commissioner of Immigration.—Citation.—A copy this day received. Jun. 10, 1904. Hoadly, Lauterbach & Johnson.—U. S. Circuit Court, Southern District of New York, Filed Jun. 10, 1904.—John A. Shields, Clerk.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

I, John A. Shields, Clerk of the Circuit Court of the United States of America, for the Southern District of New York, in the second Circuit, do hereby certify that the foregoing pages, numbered from one to two hundred and ten inclusive, contain a true and complete transcript of the record and proceedings had in said Court, in the cause entitled William Williams, United States Commissioner of Immigration at the port of New York, Appellant, against Peter Pearson, Enoch Pearson and John Wakefield, Appellees, as the same remain of record and on file in my office.

In Testimony whereof, I have caused the seal of the said Court to be hereunto affixed, at the City of New York, in the Southern District of New York, in the Second Circuit, this 10th day of August, in the year of our Lord one thousand nine hundred and four, and of the Independence of the said United States the one hundred and twenty-ninth.

[SEAL]

JOHN A. SHIELDS, *Clerk.*

189 United States Circuit Court of Appeals for the Second Circuit.
No. 129.—October Term, 1904.

Argued January 27, 1905. Decided February 24, 1905.

WILLIAM WILLIAMS, as Commissioner of Immigration, Appellant,
vs.
PETER PEARSON ET AL., Appellees.

Appeal from the Circuit Court of the United States for the Southern District of New York.

Before Judges Wallace, Townsend and Coxe.

WALLACE, *Circuit Judge.*

This is an appeal by the Commissioner of Immigration at the Port of New York from an order in *habeas corpus* discharging the appellees from his custody. The appellees were aliens in the custody of the commissioner under a warrant of the Secretary of Commerce and Labor. They arrived at the Port of New York about February 1, 1904, and were detained for examination before a Board of Special Inquiry to ascertain whether they had come to this country in violation of law. The board, after hearing evidence, decided in their favor, and they were by its unanimous decision allowed to land. Thereafter, and on or about March 21, 1904, the Secretary of Commerce and Labor issued a warrant, under which they were held in custody by the appellant, pending an inquiry to ascertain whether they were here in violation of law as alien laborers who had come here under a previous contract to perform service. All the proceedings were had pursuant to the act of Congress of March 3, 1903, entitled "An Act to regulate the immigration of aliens into
190 the United States." The pertinent provisions of this act are these: Section 21 provides that in case the Secretary of the Treasury shall be satisfied that an alien has been found in the United States in violation of the act, he may cause such alien, within a period of three years after landing, to be taken into custody and deported. Section 24 provides that any alien who may appear to the examining immigrant inspector at the port of arrival not to be clearly and beyond doubt entitled to land shall be detained for examination in relation thereto by a Board of Special Inquiry. Section 25 provides that such board shall consist of three persons to be selected by the Commissioner-General of Immigration from the immigrant inspectors in his service, with the approval of the Secretary of the Treasury, and shall have authority to determine whether an alien who has been duly held shall be allowed to land or deported * * * and that the decision of any two members of the board shall prevail and be final; but that either the alien or any dissenting member of said board may appeal * * * to the Secretary of the Treasury whose decision shall be final.

The powers conferred by these provisions upon the Secretary of

the Treasury were subsequently vested in the Secretary of Commerce and Labor (Act of February 14, 1903).

It is insisted for the appellees, and this contention prevailed in the court below, that the decision of the Board of Special Inquiry, no appeal from it having been taken, was final. The examination before that board was addressed to the inquiry whether the aliens had come to this country in violation of law as contract laborers; and it is urged that the decision of the board is *res adjudicata* upon that question, and conclusive of their right to enter and remain.

We are of the opinion that the decision of the board has no other effect than a determination that the alien shall be permitted to land; that its functions are confined to this initial inquiry; and that it is competent for the Secretary of Commerce and Labor at
191 any subsequent time during the three years, upon becoming satisfied that the alien who has been allowed to enter is notwithstanding here in violation of law, to exercise the power of deportation. The board is a subordinate tribunal whose powers extend merely to the decision of the particular inquiry committed to it, and any adjudication beyond this, even if it were to be regarded as a judicial decision, would be *coram non judice*.

The existing provisions of law are substitutes for provisions of the earlier acts regulating the immigration of aliens. By Section 8 of the act of March 3, 1891, it was committed to the inspection officers at every place of arrival to detain alien immigrants for examination. They were authorized to administer oaths and take and consider testimony touching the right of such aliens to enter the United States, and it was provided that all decisions made by them "or their assistants" touching the right of any alien to land when adverse to such right should be final unless an appeal should be taken to the Superintendent of Immigration, and that his action should be subject to review by the Secretary of the Treasury. By Section 11 of that act it was provided that any alien who should come into the United States in violation of law might be returned as by law provided at any time within one year thereafter. By an act of October 19, 1888 (25 Stats. at L. 565), the Secretary of the Treasury had been authorized, in case he should be satisfied that an immigrant had been allowed to land contrary to the law prohibiting the immigration of laborers under previous contract, to cause the immigrant within the period of one year after landing or entering to be taken into custody and returned to the country whence he came. Speaking of these enactments in *Japanese Immigrant Case* (189 *U. S.*, 99), the Supreme Court used this language: "Taking all its enactments together, it is clear that Congress did not intend that the mere admission of an alien, or his mere entering the country, should place him at all times thereafter entirely beyond the control or authority of the executive officers of the government. On
192 the contrary, if the Secretary of the Treasury became satisfied that the immigrant had been allowed to land contrary to the prohibition of that law, then he could at any time within a year after the landing cause the immigrant to be taken into custody and deported. The immigrant must be taken to have entered subject to

he condition that he might be sent out of the country by order of he proper executive officers if within a year he was found to have een wrongfully admitted into it, or illegally entered the United tates." By the present act the time within which this power could e exercised by the Secretary of the Treasury was extended to the eriod of three years after the landing or entering of the immigrant, nd was subsequently transferred to the Secretary of Commerce and abor. It is the plain purpose of the drastic legislation embodied in he immigrant exclusion acts to provide every possible safe-guard gainst the abuse by aliens of the prohibited classes of the privilege f coming to or remaining within this country. There is no repug- ance between the power conferred upon the Board of Special Inquiry nd that conferred upon the secretary. The former is to be exercised ummarily, and while the immigrant is under detention awaiting he result of the inquiry. The board has no authority to compel the ttendance of witnesses, and must decide upon such evidence as is t hand or is readily accessible. Of necessity its decisions do not ave the quality of even approximate infallibility. It is hardly onceivable that Congress should have intended that such a decision hould be a final determination of the status of the alien. Mani- estly Congress intended not only that the secretary might review he question whether he should be allowed to enter upon an appeal rom the decision, but also that at any time within three years the ecretary should have the power to reconsider the broader question f the right of the alien to remain, and upon reaching an adverse onclusion to order his deportation. This is not a power to be exer- ised arbitrarily, and deportation is to be ordered only after giving the alien an opportunity to be heard upon the questions in-
193 volving his privilege. In the present case before deportation of the aliens had been ordered they were heard; and it is o be presumed that the power of deportation would not have been xercised unless after a fair hearing the secretary had become con- vinced that they were here in violation of law.

The order is reversed, with instructions to remand petitioners to ustody of the respondent.

Judge Coxe dissents.

W. M. Byrne, for the Appellant.
Eugene Treadwell, for the Appellees.

194 At a Stated Term of the United States Circuit Court of Appeals, in and for the Second Circuit, held at the Court Rooms in the Post Office Building in the City of New York, on the 7th day of March one thousand nine hundred and five.

Present: Hon. William J. Wallace, Hon. William K. Townsend, Hon. Alfred C. Coxe, Circuit Judges.

WILLIAM WILLIAMS, as Commissioner of Immigration, Appellant,
vs.
PETER PEARSON ET AL., Appellees.

Appeal from the Circuit Court of the United States for the Southern District of New York.

This cause came on to be heard on the transcript of record from the Circuit Court of the United States, for the Southern District of New York, and was argued by counsel.

On consideration whereof, it is now hereby ordered, adjudged and decreed that the order of said Circuit Court be and it hereby is reversed, and with instructions to remand the petitioner to the custody of the respondent.

W. J. W. It is further ordered that a Mandate issue to the said
A. C. C. Circuit Court in accordance with this decree.

195 Endorsed: United States Circuit Court of Appeals, Second Circuit. Wm. Williams *vs.* Peter Pearson. Order for Mandate. United States Circuit Court of Appeals Second Circuit. Filed Mar. 9, 1905. William Parkin, Clerk.

196 UNITED STATES OF AMERICA,
Southern District of New York, ss:

I, William Parkin, Clerk of the United States Circuit Court of Appeals for the Second Circuit, do hereby Certify that the foregoing pages, numbered from 1 to 195 inclusive, contain a true and complete transcript of the record and proceedings had in said Court, in the case of Wm. Williams, Commissioner of Immigration, against Peter Pearson, as the same remain of record and on file in my office.

In testimony whereof, I have caused the seal of the said Court to be hereunto affixed, at the City of New York, in the Southern District of New York, in the Second Circuit, this 7th day of April, in the year of our Lord, One Thousand Nine Hundred and Five and of the Independence of the said United States the One Hundred and Twenty-ninth.

[Seal United States Circuit Court of Appeals, Second Circuit.]

WM. PARKIN, *Clerk.*

197 UNITED STATES OF AMERICA, *ss:*

The President of the United States of America to the Honorable the Judges of the United States Circuit Court of Appeals for the Second Circuit, Greeting:

[Seal of the Supreme Court of the United States.]

Being informed that there is now pending before you a suit in which William Williams, United States Commissioner of Immi-

gration at the Port of New York, is appellant, and Peter Pearson, Enoch Pearson, and John Wakefield are appellees, which suit was removed into the said Circuit Court of Appeals by virtue of an appeal from the Circuit Court of the United States for the Southern District of New York, and we, being willing for certain reasons that the said cause and the record and proceedings therein should be certified by the said Circuit Court of Appeals and removed
198 into the Supreme Court of the United States, do hereby command you that you send without delay to the said Supreme Court, as aforesaid, the record and proceedings in said cause, so that the said Supreme Court may act thereon as of right and according to law ought to be done.

Witness the Honorable Melville W. Fuller, Chief Justice of the United States, the ninth day of May, in the year of our Lord one thousand nine hundred and five.

JAMES H. McKENNEY,
Clerk of the Supreme Court of the United States.

199 [Endorsed:] File No. 19,722. Supreme Court of the United States. No. 622, October Term, 1904. Peter Pearson and Enoch Pearson *vs.* William Williams, U. S. Commissioner &c. Writ of Certiorari.

[Stamp:] United States Circuit Court of Appeals Second Circuit. Filed May 26, 1905. William Parkin, Clerk.

200 United States Circuit Court of Appeals for the Second Circuit.

WILLIAM WILLIAMS, United States Commissioner of Immigration at the Post of New York, Appellant,
vs.
PETER PEARSON, ENOCH PEARSON, and JOHN WAKEFIELD, Appellees.

It is hereby stipulated that the transcript already filed in the Clerk's office of the Supreme Court of the United States with the petition for the writ of certiorari, be taken as a return to said writ, dated the ninth day of May, 1905.

H. M. HOYT,
Solicitor General.
EUGENE TREADWELL,
Counsel for Peter Pearson and Enoch Pearson.

Endorsed: U. S. Circuit Court of Appeals, Second Circuit. Wm. Williams, United States Commissioner of Immigration at the Port of New York, Appellant, *vs.* Peter Pearson, Enoch Pearson and John Wakefield, Appellees. Stipulation. Hoadly, Lauterbach & Johnson, 22 William Street, New York City. United States Circuit Court of Appeals, Second Circuit. Filed May 26, 1905. William Parkin, Clerk.

201 To the Supreme Court of the United States, Greeting:

The record and all proceedings wherein mention is within made having lately been certified and filed in the office of the Clerk of the Supreme Court of the United States, a copy of the stipulation of counsel is hereto annexed and certified as a return to the writ of certiorari issued herein.

New York, May 26th, 1905.

[Seal United States Circuit Court of Appeals, Second Circuit.]

WM. PARKIN,
Clerk of the United States Circuit Court of Appeals for the Second Circuit.

202 [Endorsed:] United States Circuit Court of Appeals, Second Circuit. Wm. Williams, etc. *v.* Peter Pearson *et al.* Return to certiorari.

203 [Endorsed:] File No. 19,722. Supreme Court U. S. October Term, 1905. Term No. 237. Peter Pearson *et al.*, Petitioners, *vs.* William Williams U. S. Commissioner of Immigration &c. Writ of Certiorari and return. Filed June 1st, 1905.

FILE COPY.

237.

No. 622.

Office Supreme Court U. S.
FILED
APR 20 1905
JAMES H. McKENN..., Clerk.

The Supreme Court of the United States.

OCTOBER TERM, 1904.

PETER PEARSON AND ENOCH PEARSON,
Petitioners,

against

WILLIAM WILLIAMS,
UNITED STATES COMMISSIONER OF IMMIGRATION AT THE PORT OF NEW YORK,
Respondent.

MOTION AND PETITION FOR WRIT OF CERTIORARI.

EDWARD LAUTERBACH,
EUGENE TREADWELL,
Counsel for Petitioners.

The Supreme Court of the United States.

PETER PEARSON and ENOCH PEARSON,
Petitioners,

against

WILLIAM WILLIAMS, United States Commissioner of Immigration at the Port of New York,
Respondent.

Motion for Writ of Certiorari.

Now come Peter Pearson and Enoch Pearson, by Eugene Treadwell, their counsel, and move this Honorable Court that it shall, by certiorari or other proper process, directed to the Honorable the Judges of the United States Circuit Court of Appeals for the Second Circuit, require said Court to certify to this Court for review and determination a certain cause in said Court of Appeals lately pending, wherein the respondent William Williams, United States Commissioner of Immigration at the Port of New York was appellant, and your petitioners Peter Pearson and Enoch Pearson, together with one John Wakefield, were appellees, and to that end they now tender herewith their petition and brief, with a certified copy of the entire record in said cause in said Circuit Court of Appeals.

EDWARD LAUTERBACH.
EUGENE TREADWELL.
Counsel.

THE SUPREME COURT OF THE UNITED STATES.

PETER PEARSON and ENOCH PEARSON,
Petitioners,

against

WILLIAM WILLIAMS, United States Commissioner of Immigration at the Port of New York,
Respondent.

Petition for Writ of Certiorari.

TO THE HONORABLE THE CHIEF JUSTICE AND ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES:

Your petitioners, Peter Pearson and Enoch Pearson, respectfully represent to this Honorable Court as follows:

First.—That your petitioners and each of them are persons of the Anglo-Saxon race and are lace weavers, and have for the past twelve months resided at Gouverneur, County of St. Lawrence, State of New York, and intend to become citizens of the United States.

Second.—Your petitioners being British subjects and intending to immigrate to the United States of America and become citizens thereof, took passage on the steamship Etruria, leaving the Port of Liverpool, England, and arriving at the Port of New York on or about February 1st, 1904. That upon arrival in the Port of New York your petitioners were taken into custody by officials of the Immigration Department and forthwith taken to Ellis Island, in the Southern District of New York,

and brought before a Board of Special Inquiry constituted of three persons, in one of the rooms of the Immigration Building at said Ellis Island in the Southern District of New York, and your petitioners were sworn and examined by the members of the said Board at great length and in detal, and at the close of the said examination your petitioners were discharged. A copy of the stenographer's minutes of the said proceedings and of the testimony is contained in Exhibit 3, forming part of the entire record hereunto annexed and marked Exhibit A.

Third.—That, as will appear from an inspection of the minutes (Exhibit 3) of the said proceeding held February 1st, 1904, your petitioners and each of them were duly sworn, fully and exhaustively examined upon complaint made as to an alleged violation of the laws of the United States in coming as aliens to the United States, under contract or agreement, parol or special, express or implied, offer, solicitation, promise or agreement to perform labor or service therein, and more particularly, for or in connection with Joseph S. Lesser or the International Lace Manufacturing Company of Gouverneur, N. Y., and that at the close of such examination the decision of the said Board was unanimously in favor of your petitioners, and your petitioners were "unanimously admitted."

Fourth.—That such proceedings so had before said Board of Special Inquiry were had under and pursuant to the provisions of Sections 24 and 25 of the Act of March 3rd, 1903, entitled "An Act to regulate the immigration of aliens in the United States," and that the decision of said Board is by

law, made final unless appealed from, either by the alien or by any dissenting member of said Board, as provided by said Section 25 of said Act, and that the decision being in favor of your petitioners, and no member of said Board dissenting, no appeal from said decision was either permitted, or in fact taken, and that, therefore the said decision under the express terms of the statute became and was final as appeared from the following extract from Section 25 is pertinent to the present case:

* * * All hearings before boards shall be separate and apart from the public, but the said boards shall keep complete permanent records of their proceedings and of all such testimony as may be produced before them; and the decision of any two members of a board shall prevail and be final, but either the alien or any dissenting member of said board may appeal, through the Commissioner of Immigration at the port of arrival and the Commissioner-General of Immigration, to the Secretary of the Treasury, whose decision shall then be final; and the taking of such appeal shall operate to stay any action in regard to the final disposal of the alien whose case is so appealed until the receipt by the Commissioner of Immigration at the port of arrival of such decision.

Fifth.—That thereafter and on or about the 23rd day of March, 1904, your petitioners and each of them, were arrested at said Gouverneur, County of St. Lawrence, State of New York, by officers of the United States Immigration Department, and forthwith taken, against the will of the said petitioners, to said Ellis Island in said Southern District, and there held and detained in the Immigration Building. That your petitioners immediately after their arrest, through their counsel, upon application to said Immigration Commissioner, received a copy of a warrant issued by the Secretary of the Department

of Commerce and Labor under which your petitioners were arrested, and also of all the evidence upon which it was claimed that the said Secretary had acted in directing said arrest, which said copy of the said warrant and evidence is contained in the above mentioned Exhibit 3.

Sixth.—That your petitioners and each of them were, on Tuesday, March 29th, 1904, brought before a Board of Special Inquiry constituted of the same three persons, before whom your petitioners had been previously brought and examined, and on said 29th day of March, 1904, and on the following day—the 30th day of March, 1904—certain proceedings were had, evidence submitted, and your petitioners examined together with Joseph S. Lesser, a copy of the stenographer's minutes of said proceedings being contained in Exhibit 3 of the transcript of record forming part of Exhibit A hereunto annexed.

Seventh.—That neither in the evidence upon which the Secretary of the Department of Commerce and Labor issued his said warrant for the arrest of your petitioners, nor in the evidence or testimony taken before the said Board of Inquiry pursuant to said warrant on the said 29th and 30th days of March, 1904, copies of all of which evidence, testimony and papers are contained in Exhibits 3, 4 and 5 of the transcript of record forming part of Exhibit A hereunto annexed, was there brought or even suggested any other charge or violation of law than the same charge or alleged violation, namely, of coming as aliens to the United States under contract or agreement, parol or special, express or implied, promise, offer, solicitation or encouragement with, by or from, the said Joseph S. Lesser or the International Lace Manufacturing Company, of Gouver-

neur, N. Y., upon which said charge the previous decision of the said Board of Special Inquiry, lawfully constituted and unanimously made in favor of the said aliens, was, as your petitioners are advised and believe, by law final and without review.

Eighth.—That as your petitioners are informed and believe, the issuance of the said warrant of arrest by the Secretary of the Department of Commerce and Labor, and the subsequent arrest of your petitioners, their detention, examination before said Board of Special Inquiry on said 29th and 30th days of March, 1904, and the continued detention of your petitioners thereafter, were unlawful and without authority.

Ninth.—That your petitioners did not come into the United States in violation of the Act of March 3d, 1903, or of any law of the United States relating to the exclusion of aliens, and that said Department of Commerce and Labor and said Secretary thereof and the said Commissioner of Immigration of the Port of New York, were wholly without jurisdiction over your petitioners, and that said warrant proceedings or arrest, examination and detention were wholly without authority of law, and that the detention of your petitioners was unlawful.

Tenth.—That thereupon your petitioners, together with John Wakefield, a British subject and an immigrant to the United States, who had been subjected, together with your petitioners, to all of the proceedings as hereinbefore recited, to wit, on the 21st day of April, 1904, filed their petition in the Circuit Court of the United States for the Southern District of New York for a writ of *habeas corpus* to obtain their discharge from detention, alleging, *inter alia*, the foregoing facts and circumstances herein-

above set forth in this petition, and thereafter the writ was issued directed to the said William Williams, Commissioner of Immigration of the Port of New York; in the meantime and before said writ was returnable the Secretary of the Department of Commerce and Labor under date of the 3rd day of May, 1904, issued his warrant directing that the petitioners and each of them, and said John Wakefield, be deported to the country from whence they came; and thereafter and on the 6th day of May, 1904, the said William Williams, Immigration Commissioner of the Port of New York, produced the bodies of your petitioners and of said John Wakefield before the said Court and made return to the writ that he held the said petitioners in his custody by virtue of the warrant of the Secretary of Commerce and Labor directing that the said petitioners be deported to the country from whence they came; whereupon your petitioners and said John Wakefield filed their answer to the return to the said writ of habeas corpus. The said cause was and is entitled in the Circuit Court of the United States for the Southern District of New York "United States *ex rel.* Peter Pearson, Enoch Pearson and John Wakefield against William Williams, Commissioner of Immigration, and was numbered 223.

Eleventh.—The said case was heard and determined by the said Circuit Court upon the evidence and testimony hereinabove referred to, together with the decision of the said Secretary of the Department of Commerce and Labor, being Exhibit 6 of the transcript of record forming part of Exhibit A hereunto annexed, by which decision it appeared that the sole charge or violation of law entertained by the said Secretary of Commerce and Labor was the same above-mentioned charge or alleged viola-

tion of law in coming to this country to labor for the said Joseph S. Lesser or the International Lace Manufacturing Company at said Gouverneur.

Twelfth.—Such proceedings were had in said case in said Circuit Court of the United States, that on the 10th day of June, 1904, the said Court rendered judgment ordering the discharge of the petitioners and said John Wakefield forthwith from the custody of the said Commissioner of Immigration, and that they go thence without day.

Thirteenth.—That the said case of your petitioners in said Circuit Court of the United States was heard before and decided by the Hon. E. Henry Lacombe, Circuit Judge of the United States sitting in said Court, and the opinion of the Court was delivered by him and endorsed in writing upon the said writ, and will be found printed on page 148 of the transcript of record forming part of Exhibit A hereunto annexed.

Fourteenth.—The said William Williams on the same day was duly allowed by said Circuit Court an appeal from its said judgment to the United States Circuit Court of Appeals for the Second Circuit, and your petitioners and said John Wakefield were duly admitted to bail pending the said appeal, to appear and abide the decision of said Circuit Court of Appeals, and it was ordered by the Court that a certified transcript of the record and of all proceedings in said case be forthwith transmitted to the said United States Circuit Court of Appeals.

Fifteenth.—And thereafter and on the 10th day of August, 1904, a certified transcript of the record and of all proceedings in said Circuit Court in said case was filed in said Circuit Court of Appeals for

the Second Circuit, and said case was entered and docketed in said Circuit Court of Appeals and entitled "United States of America *ex rel.* Peter Pearson, Enoch Pearson and John Wakefield, appellees vs. William Williams, United States Commissioner of Immigration, appellant, No. 2152."

The assignment of errors filed on behalf of the appellant was as follows:

"William Williams, United States Commissioner of Immigration at the port of New York, respondent in the above-entitled proceeding, in connection with his petition for leave to appeal to the United States Circuit Court of Appeals, makes the following assignment of errors, which he avers occurred herein:

First.—That the Court erred in deciding that the unanimous decision of the Board of Special Inquiry allowing the above-named Peter Pearson, Enoch Pearson and John Wakefield to land, is conclusive or *res adjudicata* upon their right to remain in the United States.

Second—That the Court erred in not holding that the said Peter Pearson, Enoch Pearson and John Wakefield entered the United States subject to the condition that they might be deported by order of the Secretary of Commerce and Labor, if within the limited period after arrival they were found to have been wrongfully allowed to land or had entered the United States in violation of law.

Third.—That the Court erred in holding that the warrant of the Secretary of Commerce and Labor set forth in the return, dated May 3, 1904, was invalid and without authority in law, because of the unanimous decision of the Board of Special Inquiry of February 1, 1904, allowing said persons to land.

Fourth.—That the Court erred in reviewing the action of the Secretary of Commerce and Labor di-

recting the expulsion of said persons, as set forth in his warrant for their deportation, dated May 3, 1904, and in not deciding that said warrant is valid and conclusive on the Court.

Fifth.—That the Court erred in not dismissing the writ of *habeas corpus* herein and in not remanding the said Peter Pearson, Enoch Pearson and John Wakefield to the custody of the Commissioner of Immigration at the port of New York.

Sixth.—That the Court erred in deciding that Peter Pearson, Enoch Pearson and John Wakefield were unlawfully restrained of their liberty, and in discharging said Peter Pearson, Enoch Pearson and John Wakefield from custody, and in adjudging that they are lawfully entitled to remain in the United States.

In order that the foregoing assignment of errors may be and appear of record, this respondent presents the same to the Court and prays that such disposition may be made thereof as in accordance with law and statutes of the United States in such cases made and provided, and respondent prays a reversal of the order entered here in May, 1904, and that the said writ of *habeas corpus* be dismissed.

Dated 10 June, 1904.

ROBERT A. PADDOCK,
Attorney for United States Commissioner of
Immigration at the Port of New York,
49 Wall Street, Manhattan,
New York."

Sixteenth.—The cause came on to be heard in said Circuit Court of Appeals on the 27th day of January, 1905, before the Hon. William J. Wallace, Circuit Judge for the Southern District of New York, the Hon. William K. Townsend, Circuit

Judge for the District of Connecticut, and Hon. Alfred C. Coxe, Circuit Judge for the Northern District of New York, and on the seventh day of March, 1905, the said Court rendered judgment reversing said judgment of said Circuit Court therein, as follows:

Appeal from the Circuit Court of the United States for the Southern District of New York.

This cause came on to be heard on the transcript of record from the Circuit Court of the United States for the Southern District of New York, and was argued by counsel.

On consideration whereof, it is now hereby ordered, adjudged and decreed, that the order of said Court be, and it hereby is reversed, and with instructions to remand the petitioners to the custody of the respondent.

It is further ordered that a mandate issue to the said Circuit Court in accordance with this decree.

Seventeenth.—A certified copy of the entire record of said cause in the said Circuit Court of Appeals is herewith furnished and hereto annexed as part of this application, in conformity with Rule 37 of this Honorable Court, relative to causes from the Circuit Court of Appeals and the same is marked Exhibit A.

Eighteenth.—That as your petitioners are informed and believe prior to the rendition of said judgment the said John Wakefield for personal reasons voluntarily returned to England where he now is.

Nineteenth.—Your petitioners are advised and believe that the said judgment of the United States Circuit Court of Appeals in said cause is erroneous

and that this Honorable Court should require the said cause to be certified to it for its review and determination under and in conformity with the provisions of the Sixth Section of the Act of Congress, entitled "An Act to establish Circuit Court of Appeal and to define and regulate in certain cases the jurisdiction of the courts of the United States, and for other purposes," approved March 3rd, 1891, the said cause being made final in the said Circuit Court of Appeals by the said act.

Twentieth.—As appears by the opinion of the Circuit Judge upon the hearing of the proceedings upon the writ of habeas corpus, the ground of his decision in favor of the petitioner was, that the old act made the decision of the Board of Special Inquiry final when adverse to the alien; that

"the new act makes the decision final (except for appeal to the Secretary of the Treasury) without any such qualification. The change is significant, and the unanimous decision of the Board in this case in favor of entry and deportation should be taken as conclusive."

Whereas the Circuit Court of Appeals, as appears by the opinion, rests its decision upon the expressions contained in the opinion of the Supreme Court in the Japanese Immigrant Case, 189 U. S., at p. 99.

The expressions in the opinion of the Supreme Court so relied upon and quoted were made with reference to the condition of the law then existing, but since changed, and were applicable to the circumstances of that case, which differ radically from those in the present case.

Twenty-first.—It appears by the record and is conceded by the pleadings, that the sole charge or alle-

gation of violation of law against the petitioners is the same charge upon which they were detained and held for examination upon arrival in this country on February 1st, 1904, namely, coming to this country to perform labor for or in connection with Joseph S. Lesser or the International Lace Manufacturing Company of Gouverneur, N. Y., upon which charge the said petitioners, after full and exhaustive examination under oath, were by the said Board unanimously admitted. It also appears that no other or further evidence of violation of law was offered in support of the said warrant of the Secretary of Commerce and Labor, under which the deportation of these petitioners was directed.

The question thus presented by the record in the case of your petitioners was and is, whether, having been, after full and exhaustive examination before a Board of Special Inquiry duly constituted and acting under the authority of Sections 24 and 25 of the Act of March 3d, 1903, and after unanimous decision of said Board in their favor, admitted to this country, they are entitled to remain herein free from further proceedings for deportation under Sections 20 or 21 of said Act, instituted by the Secretary of Commerce and Labor upon the same charge or without further evidence tending to show the existence of such violation of said statute.

There is thus involved:

1st. The construction of important provisions of the statute controlling immigration to this country.

2. The question whether an alien immigrant, having been duly admitted after full examination by duly authorized officers, may be subject to re-

trial upon the same charge and without further evidence.

The decision of the Circuit Court of Appeals reversing the Judge at Circuit was by a divided Court, Judges Wallace and Townsend being in favor of reversal, Judge Coxe dissenting.

The four judges who have been called to pass upon the question have divided evenly in deciding the same. Your petitioners are advised that the question has never before arisen, and that the provisions of Section 25 of the Act of March 3d, 1903, making the decisions of the Board of Special Inquiry final when unanimous in favor of the alien, have never been passed upon or construed by any court except in the case of your petitioners.

The question is one which involves the right of a a large number of aliens who have been admitted to this country and who may not rest in peace and security until three years have passed which, by limit of time, shall exclude the power of the Secretary to arbitrarily deport them without existence of other ground of violation or evidence thereof than what has already been passed upon by duly authorized officials in their favor.

Your petitioners thus respectfully submit that the question upon the legal and just construction and effect of the said Immigration Act involved in and presented by the said case of your petitioners should be authoritatively and finally adjudged by this Honorable Court upon and after a full presentation to the Court of the merits of the said question on the part of the petitioners and the United States.

WHEREFORE, your petitioners respectfully pray that a Writ of Certiorari may be issued out of and under the seal of this Court, directed to the United States Circuit Court of Appeals for the

Second Circuit, commanding the said Court to certify and send to this Court on a day certain therein to be designated, a full and complete transcript of the record and all proceedings of the said Circuit Court of Appeals in the said case therein entiled "United States of America *ex rel.*, Peter Pearson, Enoch Pearson, and John Wakefield, appellees, against William Williams, Commissioner of Immigration, appellant," No. 2152, to the end that the said case may be reviewed and determined by this Court, as provided in Section 6 of the Act of Congress entitled "An Act to establish Circuit Courts of Appeal and to define and regulate in certain cases the jurisdiction of the Courts of the United States, and for other purposes," approved March 3rd, 1891, or that your petitioners may have such other or further relief or remedy in the premises as to this Court may seem proper and in conformity with the said Act, and that the said judgment of the said Circuit Court of Appeals in said case, and every part thereof, may be reversed by this Honorable Court.

And your petitioners will ever pray, etc.

PETER PEARSON and ENOCH PEARSON,

By EUGENE TREADWELL,
Attorney and Counsel for Petitioners.

EDWARD LAUTERBACH,
EUGENE TREADWELL,
Of Counsel.

STATE OF NEW YORK, }
County of New York, } ss.:

EUGENE TREADWELL, being duly sworn, says: That he is one of the counsel for Peter Pearson

and Enoch Pearson, the petitioners, and as such has had personal charge for them of the case in the foregoing petition mentioned in the Circuit Court of the United States for the Southern District of New York, and in the United States Circuit Court of Appeals for the Second Circuit. That he has read the said petition by him subscribed, and that the facts therein are true as he verily believes.

EUGENE TREADWELL.

Subscribed and sworn to before me this 10 day of April, 1905.

ISAAC A. LEVY,
[SEAL.] Notary Public,
New York County.

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Office Supreme Court
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JAMES H. McKENNEY,
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No. ~~622~~ 237.

United States Supreme Court.

PETER PEARSON AND ENOCH PEARSON,
Petitioners,

vs.

WILLIAM WILLIAMS,
UNITED STATES COMMISSIONER OF IMMIGRATION
AT THE PORT OF NEW YORK,
Respondent.

BRIEF FOR PETITIONERS.

EDWARD LAUTERBACH.
EUGENE TREADWELL,
Of Counsel for Petitioners.

United States Supreme Court.

PETER PEARSON and ENOCH PEARSON,
Petitioners,

against

WILLIAM WILLIAMS, United States Commissioner of Immigration at the Port of New York.

Brief for Petitioners on Petition for Writ of Certiorari.

STATEMENT OF FACTS.

The record on which the petition is based, and the opinions also hereto annexed (pp., top 40–41) show that the Circuit Court of Appeals for the Second Circuit, by a divided court, two of the Judges therein concurring, and one thereof dissenting, reversed the judgment of the Circuit Court of the Southern District of New York, which, after a hearing upon a writ of *habeas corpus* brought by the petitioners, together with one John Wakefield, against the above named respondent, sustained the writ and discharged the said petitioners from custody.

The judgment of the Circuit Court of Appeals was rendered upon an appeal by the United States Commissioner of Immigration at the Port of New

York from the order of the Circuit Court for the Southern District of New York (Transcript of Record, top p. 157), made and entered the 10th day of June, 1904, discharging the petitioners from the custody of the said Commissioner, who held them for deportation to the country from which they came under and by virtue of a warrant or order of the Secretary of Commerce and Labor (p. 152). There was no question of fact at issue on this appeal. The return did not deny the facts set forth by the petition. The answer (p. 153) filed by the petitioners did not deny any of the facts set forth in the return made by the said Commissioner to the *writ of habeas corpus* granted on the petition of the said petitioners (p. 149). The material facts as they appear in the petition, and the return (pp. 2, 4, 149, 152) are as follows:

Both petitioners are aliens (p. 2) and arrived at the Port of New York from England, on or about February 1, 1904 (p. 4). Upon their arrival, on or about February 1, 1904, the said petitioners were detained at said port under the provisions of law (p. 4) and thereupon they were examined by a Board of Special Inquiry duly appointed for the said Port of New York, which said Board of Inquiry consisted of Messrs. Moler (chairman), and Weihe and Eppler, Inspectors, and which said Board of Special Inquiry was appointed and acted pursuant to Section 25 of the Act of Congress, approved March 3, 1903, entitled, "An Act to Regulate the Immigration of Aliens into the United States" (p. 14).

The petitioners, and each of them (p. 5) were duly sworn, fully and exhaustively examined upon complaint made as to an alleged violation of the laws of the United States in coming as aliens to the United States, under contract or agreement, parol or special, express or implied, offer, solicitation, promise or agreement, to perform labor or service

therein, and more particularly, for or in connection with Joseph S. Lesser, of the International Lace Manufacturing Company, of Gouverneur, New York, and at the close of such examination the decision of the said Board was unanimously in favor of your petitioners, and your petitioners were unanimously admitted.

Subsequently they were arrested upon a warrant issued by the Secretary of Commerce and Labor, bearing date March 21, 1904 (p. 45), and were taken before a Board of Special Inquiry consisting of the same persons, to wit: Messrs. Moler, Chairman, and Weihe and Eppler, Inspectors (p. 45), who constituted the same Board of Special Inquiry that acted in the case of the said petitioners on or about February 1, 1904, and the said petitioners arrested as aforesaid on the warrant dated March 21, 1904, were given opportunity to show cause why they should not be deported from the United States (Pars. 3, 4 and 5 of the Petition, *fols.* 6, 11, p. 150). This same Board of Special Inquiry had once before decided unanimously that the petitioners should be admitted to the United States (p. 24).

Neither in the evidence upon which the Commissioner of the Department of Commerce and Labor issued his said warrant for the arrest of the petitioners, nor in the evidence or testimony taken before the Board of Inquiry, pursuant to said warrant, on the 29th and 30th days of March, 1904, copies of all of which evidence, testimony and papers have been annexed to the petition for the *liteus corpus*, and are contained in the Exhibits 3, 4 and 5, appeared, or was even suggested, any other charge or violation of law than the same charge or alleged violation, viz.: of coming as aliens to the United States under contract or agreement, parol or special, expressed or implied, promise, offer, solicitation or encouragement, with, by, or from the said Joseph S. Lesser or the International

Lace Manufacturing Company, of Gouverneur, New York, upon which said charge the previous decision of the said Board of Special Inquiry lawfully constituted and unanimously made in favor of the said aliens, was by law final and without review.

The Board of Special Inquiry at the second hearing as aforesaid, commenced at Ellis Island, New York, March 29, 1904 (p. 45), took testimony as to whether the petitioners were justly and properly entitled to be allowed to land in the United States at the time of their arrival at the Port of New York, to wit: on or about February 1, 1904. The said Board of Special Inquiry after weighing and considering the evidence given on the last hearing, did not make a decision in reference thereto, but recommended that two of said petitioners to wit: Peter Pearson and Enoch Pearson, should be deported and that the other alien, to wit: John Wakefield, should be discharged (p. 4, Par. 5, admitted in answer, p. 150, *fol.* 448).

The affidavits upon which the warrant for the arrest of the petitioners was issued by the Secretary (Exhibit 3, pp. 25–44) charge the same alleged violation and no other, relating, as all of them do, to the question of employment of the appellees by Joseph S. Lesser or the Gouverneur Company.

The decision of the Secretary (Exhibit 6, p. 169, *fols.* 506–507) charges the same alleged violation, viz.: employment by Joseph S. Lesser, or the Gouverneur Company, and no other.

The Secretary of Commerce and Labor decided that the said petitioners who landed at the Port of New York, on the 1st day of February, 1904, were in this country in violation of the Acts of Congress, approved February 26, 1885, February 23, 1887, March 3, 1891, and March 3, 1903, and he thereupon on May 3, 1904, issued a warrant for their deportation (p. 152).

Before the decision and issue of the warrant of deportation, and while these petitioners were in the custody of the respondent, they commenced a *habeas corpus* proceeding wherein the order appealed from in this case was made directing their discharge (pp. 157, 158). Pending the determination of this appeal, the petitioners were released on bail to answer the final judgment of the Appellate Court (p. 159).

The fact that the Secretary's deportation proceedings, from beginning to end, were based solely upon the identical charge of violation of the statute, employment, etc., by Joseph S. Lesser or the Gouverneur Company, upon which charge the petitioners had been previously challenged, arrested on the Cunard Dock, and held for examination by the Special Board of Inquiry, and thereafter sworn and fully examined by said Board, and by it unanimously admitted, was set forth at length in the petition was not denied or controverted by the return, and is therefore admitted.

STATUTES.

(1) The following are the Acts of Congress relating to the subject in question:

Act of February 26, 1885 (23 Stat. L., 332), Sections 2 and 5.

Amendment October 19, 1888 (25 Stat. L., 565).

Amendment Act March 3d, 1891, Section 8 (26 U. S., Stat. L., 1084).

Act of March 3rd, 1893, Section 5 (27 Stat. L., 569).

Appropriations Act, August 18, 1894 (2 Supp., U. S. R. S., p. 253).

Act of March 3d, 1903, Sections 2, 21, 24, and 25 (32 U. S., Stat. L., 1213).

Act of February 14, 1903, Establishing

Department of Commerce and Labor, Section 7.

(2) The provisions for the detention and examination of aliens on their arrival appeared first in the Act of March 3d, 1891, Section 8, which was subsequently amended by the Act of March 3d, 1893, Section 5, which was again amended by the Act of March 3d, 1903, Sections 24 and 25, the provisions now in force.

(3) The following extract from Section 25 is pertinent to the present case:

* * * All hearings before boards shall be separate and apart from the public, but the said boards shall keep complete permanent records of their proceedings and of all such testimony as may be produced before them; and the decision of any two members of a board shall prevail and be final, but either the alien or any dissenting member of said board may appeal, through the Commissioner of Immigration at the port of arrival and the Commissioner-General of Immigration to the Secretary of the Treasury, whose decision shall then be final; and the taking of such appeal shall operate to stay any action in regard to the final disposal of the alien whose case is so appealed until the receipt by the Commissioner of Immigration at the port of arrival of such decision.

(4) The statutory authority, under which the Commissioner claims the right to issue his warrant and take the proceedings had herein, was at first incorporated in the amendment of October 19, 1888 (25 Stat. L., 565); and subsequently re-enacted in the Act of March 3d, 1903, Section 21.

POINTS OF LAW.

I.

Under the Act of March 3d, 1903, the unanimous decision of the Board of Special Inquiry in favor of the aliens is conclusive upon their right to remain in the country.

THE BOARD OF SPECIAL INQUIRY ACQUIRED FULL JURISDICTION IN THE PREMISES.

(1) The last paragraph of Section 24 of the act provides:

"Every alien who may not appear to the Examining Immigrant Inspector at the port of arrival to be clearly and beyond a doubt entitled to land, shall be detained for examination in relation thereto by a Board of Special Inquiry."

(*a*) The Immigration Department had received before the arrival of the aliens certain notices (*fols.* 40, 41). Thereafter and on arrival of the aliens at the port of New York, and immediately on leaving the steamship and while on the dock, they were taken into custody by the officials of the Department (p. 4, *fol.* 12) and forthwith taken before the Board of Special Inquiry.

(*b*) The first paragraph of Section 25 of the act provides as follows:

"Sec. 25. That such Boards of Special Inquiry shall be appointed by the Commissioners of Immigration at the various ports of arrival as may be necessary for the prompt determination of all cases

of aliens detained at such ports under the provisions of law. Such boards shall consist of three members * * *."

(*c*) It was conceded by counsel for respondent on both of the arguments below that the Board before which the aliens were taken February 1, 1904, consisting of Messrs. Moler, Weihe and Eppler was a duly constituted Board of Special Inquiry, as provided by the Sections 24 and 25.

(*d*) Section 25 contains the further provision:

"Such Boards shall have authority to determine whether an alien who has been duly held shall be allowed to land or be deported."

CONGRESS BY THIS EXPLICIT LANGUAGE THUS CONFERRED FULL POWER AND JURISDICTION UPON THE BOARD OF SPECIAL INQUIRY TO HEAR AND *determine* THE QUESTION.

This tribunal thus specially constituted by Congress was by the same section clothed with other *indicia* common to tribunals of judicial character.

(*e*) The section provides:

"All hearings before Boards shall be separate and apart from the public, but the said Boards shall keep complete permanent records of their proceedings and of all such testimony as may be produced before them."

(*f*) From the foregoing it appears that Congress had thus specifically created a complete and independent system of detention and examination of alien immigrants upon alleged violations of the law.

(2) There can be no doubt, and no question has been made by the Government anywhere in these

proceedings, but that the Board of Special Inquiry before whom the aliens were brought in February 1, 1904, had by force of the provisions of Sections 24 and 25, full power to entertain the charge of violation of the statute by the aliens in coming into the country to perform labor therein under alleged employment, inducement, etc., by Joseph S. Lesser or the Gouverneur Company.

(*a*) The minutes of the examination which ensued (pp. 14 to 24) show, and it is conceded, that the Board examined the aliens under oath, fully and at length, in relation to the charge above mentioned.

(*b*) The examination was conducted to the limit desired by the Board; and upon its conclusion by the Board the aliens were admitted by the *unanimous* vote of the Board (p. 24, *fols.* 70, 72).

(3) Congress made this unanimous decision final.

(*a*) Section 25 proceeds as follows:

"And the decision of any two members of a Board shall prevail and be final, but either the alien or any dissenting member of the said Board may appeal, through the Commissioner of Immigration at the port of arrival and the Commissioner-General of Immigration, to the Secretary of the Treasury, whose decision shall then be final."

(*b*) The decision of the Board is thus made final by explicit language. Appeal is only provided where the decision is adverse to the alien, in which case it may be taken by the alien; or where the decision is made by a divided Board, in which case the appeal may be taken by the dissenting member.

(4) DECISION WAS FINAL AS TO THE SECRETARY AS WELL AS THE COURTS.

Respondent's counsel contended that the decision is not final as to the Secretary, but only final as to the Courts.

The restriction contended for is not permissible.

The language of the section is plain and specifically includes the Secretary.

By cutting off all appeal to him in case of a unanimous decision it specifically excludes him.

Where the language is unambiguous its plain import must be followed and there is no room for construction.

> *U. S.* vs. *Bowen*, 100 U. S., 508, 513.
> *Tompkins* vs. *Hunter*, 149 N. Y., 117, 123.

An ordinary case arising under the section will illustrate the clear intention of Congress to exclude the Secretary. If the Board of Special Inquiry in finding in favor of the aliens had *divided*, an appeal would have been taken by the dissenting member through the various officials to the Secretary.

If the Secretary had then, upon the case as presented before the Board, affirmed the decision, there can be no question, but that such decision would have been final, binding the Secretary himself, as well as all others.

That the Secretary would have been limited to the case as presented before the Board of Special Inquiry is provided by Rule 9 of the Immigration Regulations promulgated August 26th, 1903, which regulations are made under the authority of the Act. Sec. 22, and which contain the following provision:

"But on such appeal of any case to the department no evidence will be considered which has not already been passed upon in said case by a Board of Special Inquiry."

It would in such a case have no longer been within the power of the Secretary to resort to the separate and distinct deportation proceedings, provided for in Section 21 of the Act, and the decision of the majority of the Board affirmed by the Secretary upon the case as then made would obviously been final. All the more clearly was the decision of the Board final when unanimously made and from which no appeal was permitted.

II.

The Circuit Court rightly decided that the change in the law made the decision of the Board of Special Inquiry final.

The rule of construcion to be followed with regard to the present act is the same as with regard to the original act of February 26, 1885.

In construing these statutes we are to get at the spirit and meaning of the act, regarding the evil which is designed to remedy, and looking at the situation as it existed, including the interpretation by the Courts of the previous statutes as they were known to Congress at the time of the passage of the present act.

Church of the Holy Trinity vs. *United States*, 143 U. S., 457, 463.
United States vs. *Wong Kim Ark*, 169 U. S., 649, 657.
In re Ellis, 124 Fed. Rep., 637, 641.

The Act of March 3rd, 1891, Section 8, contains the following:

"All decisions made by the inspection officers or their assistants touching the right of any alien to land when adverse to such right shall be final unless an appeal be taken to the Superintendent of Immigration, whose action shall be subject to review by the Secretary of the Treasury."

The subsequent Appropriation Act of August, 1894 (2 Supp. R, S., 253) contains the following:

"In every case where an alien is excluded from admission into the United States * * * the decision of the appropriate immigration or customs

officers if adverse to the admission of such alien shall be final, unless reversed on appeal," etc.

These provisions, which are substantially alike, were the provisions which were in force and received the construction of the Courts *in all of the cases hitherto arising* under the Contract Labor Laws, including those cited by counsel for appellant.

Lem Moon Sing vs. *U. S.*, 158 U. S., 538, 547.
Li Sing vs. *U. S.*, 180 U. S., p. 490.

In all of these cases the Court held that under the terms of the statute the decision of the immigration officer was only final "when adverse to the alien."

It is also to be noted in this connection, that during all this time the decision was that of a single official with no safeguards provided for arriving at the truth of such challenge or complaint, and no examination under oath on the charge.

The proceeding was summary, informal and arbitrary.

No charge having been made to the inspector, he would obviously be without a guide in his examination, which, under the circumstances, would usually be perfunctory and limited to an inquiry as to nationality, in view of the Chinese Exclusion Act, and to examine for physical defects or existing disease.

The law thus remained unchanged until the Act of March 3rd, 1893, when a different procedure was instituted.

Under Section 5 of that Act the inspector instead of passing at once upon the admission of the alien as under the previous acts, was obliged to detain *every alien* (unless it clearly appeared to him that such alien was entitled to admission) for a special inquiry before a board of four officials acting as in-

spectors, to be designated by the head of the department, and no immigrant could be admitted upon such inquiry except upon a favorable decision of at least three of said inspectors.

This was the first creation of a board of special inquiry, and for the first time Congress exhibited an intent to give greater care and attention to the examination and *greater weight to the decision of the Board.*

The finality of the decision was not explicitly provided for; the language used is as follows:

"And any decision to admit shall be subject to appeal by any dissenting inspector to the Superintendent of Immigration, whose action shall be subject to review by the Secretary of the Treasury, as provided in Section 8 of said Immigration Act of March 3rd, 1891."

The finality of the decision was therefore to be inferred in the absence of any appeal or of any dissenting inspector, when the decision was favorable to the alien.

No case appears to have arisen which called for the construction of Section 5 of the Act of 1893.

After a further lapse of ten years, a period exceeding that which had previously elapsed since the enactment of the first contract labor law, Congress again took up the entire subject, collated various provisions together, retaining some in their original form, and amplifying others, particularly the provisions applying to the detention and examination of immigrants.

CONGRESS BY SECTIONS 24 AND 25 OF THE PRESENT ACT LARGELY AMPLIFIED THE SYSTEM PREVIOUSLY INAUGURATED IN 1893.

Elaborate provisions were introduced with regard to the inspectors, clothing them with power to ad-

minister oaths, take testimony and reduce the same to record, providing for the punishment of any person to whom such oath had been administered for the giving of false testimony, subjecting any such primary decision, if favorable to the alien, to challenge, which should bring the alien before the Board of Special Inquiry, and directing that every alien, unless his right to land appeared beyond doubt, should be detained for examination before a Board of Special Inquiry.

Congress also provided with detail in Section 25 for the creation of such board, and, as we have seen, specifically conferred upon such board, authority to determine the question before them.

Such board was made a *board of record* and their majority decision *specifically made final*, subject only to reversal on appeal; and in event of being unanimous not even subject to appeal.

THUS CONGRESS NOT ONLY CHANGED THE LANGUAGE OF THE PREVIOUS PROVISIONS, BUT CHANGED THE SCHEME SUBSTANTIALLY, CLOTHING THE BOARD WITH GREATER POWERS, PROVIDING A PERPETUATION OF THEIR RECORDS, AND RENDERING THEIR DECISION FINAL, SUBJECT ONLY TO REVERSAL IN THE CASES, AND IN THE MANNER, SPECIFIED IN THE SECTION.

The change was significant.

(Opinion of LACOMBE, J., p. 41 *Post*).

Material change of expression imports change of intention.

Am. Ency. of Law (2nd ed.), Vol. 26, p. 652.

U. S. vs. *Bashaw*, 4 U. S. Appeals, 360.

The earlier provisions, as we have seen, had been

construed by the courts and held not to render the decision final.

A change made after judicial interpretation of the previous enactment infers that the interpretation was before the Legislature and the change is presumed to have been made to obviate that interpretation.

U. S. vs. *Mooney*, 116 U. S., 104.
U. S. vs. *Cent. Pac. R. Co.*, 118 U. S. 235.
U. S. vs. *Le Bris*, 121 U. S., 278.

THE SCHEME ADOPTED BY CONGRESS IN THE LATER ACT OF MAKING THE DECISION FINAL WHEN UNANIMOUS IS NOT NOVEL, A PROVISION OF SIMILAR NATURE EXISTING IN THE CODE OF THE STATE OF NEW YORK.

Code of Civil Proc. Section 191, subdivisions 2 and 4.

The policy both of Congress and of the New York Legislature was to relegate certain questions to the intermediate tribunal for final determination.

Counsel for respondent suggested a limitation of Sections 24 and 25 of the Act of March 3rd, 1903, which would in his view leave the Secretary still with jurisdiction in the present case to issue warrant proceedings under Section 21. He endeavored to make a distinction between the "right to land," as found in Section 25, and the right *to be or remain*.

THE DECISION WOULD THUS ONLY BE FINAL FOR FIVE MINUTES.

No such distinction is made anywhere by the language of the statute itself.

On the contrary, the express language of the statute in many places establishes that the "right to land" and the right to be and remain are the same.

In Section 24 the following language is used:

"Immigration officers shall have power to administer oaths and to take and consider testimony touching the right of any alien *to enter* the United States. * * * Any false statement in any way affecting or in relation to the right of an alien *to admission* to the United States. * * * The decision of any such officer, if favorable to the *admission* of any alien, shall be subject to challenge by any other immigration officer, and such challenge shall operate to take the alien whose right to *land* is *so challenged*, before a Board of Special Inquiry for its investigation."

In Section 25 is stated the power of the Board before whom is taken the immigrant whose "right to land" is *so challenged*. Such Boards shall have authority to determine whether an alien who has been duly held shall be "allowed to land" or be "deported."

Thus, we have the words "admission" and "right to land" used in close context as synonymous, and furthermore the use of the words, "right to land" in full contradistinction to the word "deported." The word "admission" certainly implies the right to be or remain.

"Deported" is the word also used in the section authorizing the warrant proceedings (Section 21 of the Act).

In the original act (23 Stat., L. 332, approved February 26th, 1885) the language used is "importation to," "migration of" (Sections 1 and 2). In the amendatory act, approved February 23d, 1887 (24 Stat., L. 414, enacting clause), the same words are used. The words used in the Act of March 3d, 1891 (enactment clause) are "excluded from ad-

mission." In Sections 10 and 11 of that act the words are "come into." Act of March 30, 1893, Section 5, the words are "entitled to admission," "any decision to admit." In the Appropriation Act, approved August 18th, 1894, the language used is "excluded from admission." The Act of March 3d, 1903, Sec. 2, the language is "shall be excluded from admission."

Thus, we see that the Board of Inquiry, under Section 25, was authorized to do, in case they so found, all that the Secretary was authorized to do by Section 21, namely, to deport. The language used, therefore, is ample to clothe the Board of Special Inquiry with power to decide the question, not merely whether the immigrant may at *that time*, and for the time being, land from the ship or Immigration Buildings at Ellis Island to the main territory of the United States, but *admission to the United States*, which carries with it the right to remain.

As we have seen, the words "right to land" are used in these sections which provide for a deliberate method of inquiry absolutely as synonymous to admission.

Admission in its ordinary sense, and as applied in such connection, always includes the right to remain; for example, "admission to the bar," "admission to the church," and "admission to citizenship," all include the right to continue in the privileges which admission conferred.

On the examination of February 1st, 1904, by the Board of Special Inquiry, the language used at the close is significant:

> "*Mr. Weihe.*—I move to admit.
>
> * * * * * *
>
> *Mr. Eppler.*—I second the motion to admit.

Mr. Moler.—They are admitted.
Aliens unanimously admitted."

The foregoing construction by the Board itself is more in conformity with the language of the statute than the contention of the counsel for the Commissioner, and serves to show how the authorities themselves regarded their action.

III.

The Circuit Court of Appeals erred in construing the present statute.

The Circuit Court of Appeals, as appears by its decision, printed post page 41, rests its decision upon expressions contained in the opinion of the Supreme Court in the *Japanese Immigrant Case*, 189 U. S., at p. 99. Both in the *Japanese Immigrant* case, *supra*, and in the case of *United States* vs. *Yamasaka*, 100 Fed. Rep., 404, referred to in the opinion of the Supreme Court in the same connection, the person involved had "clandestinely entered the country" and had never "even been admitted into the country pursuant to law."

> *Japanese Immigrant Case*, *supra*, p. 98.
>
> *U. S.* vs. *Yamasaka*, *supra*, page 405.

The Circuit Court of Appeals, in a case called to our attention since the argument below, seems to have formerly adopted a different construction of a somewhat similar provision, namely, Section 12 of the Act of September 13, 1888 (25 Stat., 476).

> *In re Li Sing*, 86 Fed. Rep., 896, 897, 898.

The opinion of the Court in that case, by Shipman, J., infering that by the terms of that section, the decision of the Collector of Customs would have been final.

The expressions in the opinion of the Supreme Court relied upon and quoted by the Circuit Court of Appeals in the present case were made with

reference to the condition of the law then existing and, moreover, were applicable to the circumstances of that case, which differ radically from those in the present case.

In the present case it is conceded that petitioners have been admitted into the country pursuant to law after full examination before the Board of Special Inquiry authorized by the statute, whose unanimous decision was made final by the terms of the same statute. The present case presents an entirely different aspect and the statutes now in force are significantly different from those involved under the earlier decisions. If the petitioners had surreptitiously entered the country the authority of the Secretary to deport them would have existed under the rule of the Japanese Immigrant case and the subsequent statutory extension of the period from one year to three. The reasoning in the Japanese Immigrant case cannot be cited in favor of any greater authority in the Commissioner, and is inapplicable to the changed condition of the statute and the different circumstances of the present case.

In the opinion of the Circuit Court of Appeals, on page 44 , it is said:

"The board is a subordinate tribunal whose powers extend merely to the decision of the particular inquiry committed to it, and any adjudication beyond this, even if it were to be regarded as a judicial decision, would be *coram non judice*."

The decision of the Board in the present case is conceded to have been within its jurisdiction.

The decision being unanimous in favor of the aliens, no appeal could be taken to the secretary, who therefore was precluded from reviewing this decision. This Board is therefore, in this respect at least, not a tribunal subordinate to the secretary.

The opinion, page 46, contains the following language:

"Manifestly Congress intended not only that the Secretary might review the question whether he (the alien) should be allowed to enter upon the appeal from the decision."

Here again the Court overlooks the expressed intention of Congress to cut off any appeal where the decision was unanimous in favor of the alien, and to preclude a review by the secretary.

The construction adopted by the Circuit Court of Appeals neither gives effect to the express exclusion of the secretary when the decision is unanimous nor to the change in the statute making the decision final when favorable as well as when adverse to the alien.

IV.

The warrant and all proceedings had thereunder were and are wholly without authority of law.

That the charge of alleged violation for which the petitioners are detained is the same as that upon which they were unanimously admitted, is not only shown by the papers upon which the warrant was issued (Exhibit 3), but is conceded by the Government (see decision of Commissioner, Exhibit 6), and by the counsel for the Government in his brief, p. 12.

Since the passage of the Act of March 3d, 1903, aliens coming to this country, who have been detained upon a specific charge, subjected to an examination by the Board of Special Inquiry, and admitted by the *unanimous* decision of that Board, are, under the provisions of Section 25 of that act, no longer subject to arrest and deportation for the specific violation under the warrant proceedings authorized under the amendment of October 19, 1888; re-enacted Section 21 of the Act of March 3d, 1903.

The petitioners, Peter Pearson and Enoch Pearson, having been, upon their arrival in this country, detained upon a specific charge, examined by the Board of Special Inquiry, on a specific charge of violation of the statute in coming to this country to perform labor under contract or inducement, the Board having decided in their favor upon the charge unanimously admitting them, and the aliens having been discharged, the Secretary of the Department of Commerce and Labor was without

jurisdiction over them as respects such specific charge of violation, and the issuance by him of the warrant, and the subsequent proceedings, were without authority of law.

V.

No authority to review proceedings had under Sections 24 and 25 is to be found in the provisions of the Act of October 19, 1888, or in Section 24 of the Act of March 3d, 1903, which authorize the warrant proceedings.

No language can be found anywhere in any of the acts relating to alien immigrants which authorizes warrant proceedings where the aliens have already been proceeded against under the provisions of Sections 24 and 25 of the Act of March 3d, 1903, upon the same charge and for the same violation, and have been unanimously admitted by the Board of Special Inquiry.

VI.

The administrative department of the Government, as well as the judicial department, are of limited jurisdiction, and can have no jurisdiction except such as the statute confers.

(1) The rule of limited jurisdiction is well settled.

Harland vs. *U. L. T. Co.*, 40 Fed. R., 310;
Sheldon et al. vs. *Sill.*, 8 How., *441, 449.

(2) There was no consent to the jurisdiction, or waiver of the question, by the aliens, they having been under arrest and duress.

(3) Jurisdiction could not be conferred by consent or waiver.

Burt vs. *Greaves*, 3 McCord, 280.
Dudley vs. *Mayhew*, 3 N. Y., 9 and 12.
Burckle vs. *Eckhart*, 3 N. Y., 137.

VII.

Warrant proceedings provided originally by the Act of October 19, 1888, and at present by Section 24 of the Act of March 3d, 1903, are not rendered useless by giving full effect to the plain language of Section 25.

Warrant proceedings would still apply in all cases where the aliens entered the country, either *clandestinely* or without challenge, detention and examination by the Board of Special Inquiry provided by Section 25.

In fact this is the very purpose for which the warrant proceedings were intended, and the very condition of circumstances in which warrant proceedings have been hitherto resorted to.

The attention of the Court is requested to Section 10 of the Act of March 3rd, 1903, as providing a scheme significantly different from that of Section 24, due to the difference in the nature of the violation. Where it is a question of disease or mental affection, the decision of the Board, based on a physician's certificate, if adverse to the alien, is final.

Doubtless such cases of violation would, under this language, remain subject to investigation by the Secretary under Section 21, in view of the decision in LI SING vs. U. S., 180 U. S., 490.

By thus secluding a particular class of violations of the Act and applying a different restriction in Section 10, the intention of Congress in Section 25 to make the decision of the Board *final*, in cases *arising properly thereunder*, becomes *even more evident*.

Thus an ample and intelligent scheme has been, by the Act of March 3rd, 1903, provided by Congress for the two situations :

1st. Where the alien enters the country without complaint, detention and examination, and otherwise without the knowledge of the Department.

2nd. Where the Department has had notice, and the alien is challenged on entry, detained and examined under oath as to the alleged violation.

The last procedure is, under the detailed provisions of Sections 24 and 25, made ample and exhaustive, and is surrounded with special protection, full provision being made in the section (Section 24) for punishment of witnesses giving false testimony therein.

VIII.

A construction of the statute which would permit the Secretary, under warrant proceedings, to review proceedings already had under Sections 24 and 25 of the Act of March 3d, 1903, resulting unanimously in favor of the admission of the aliens, would make the Act conflict with the recognized principles of justice, and, therefore, is not to be adopted.

(1) The Supreme Court has expressly clothed an alien immigrant with the protection of the principles contained in the Fifth Amendment in connection with the enforcement of the alien contract labor laws and warrant proceedings for deportation thereunder, and held that administrative officers may not when executing the provisions of a statute involving the liberty of persons, disregard the fundamental principles that inhere in "due process of law" as understood at the time of the adoption of the Constitution.

> *Japanese Immigrant Case*, *supra*, p. 100.

The principle that no person who has once been tried before a lawfully constituted tribunal and acquitted shall be again tried for the same offense is certainly one of the fundamental principles that inhere in "due process of law" as understood at the time of the adoption of the Constitution.

In the case cited the Supreme Court, in its opinion (p. 101), proceeded to mention another of these principles bearing on the case then at bar, but a

principle no more fundamental or inhering in "due process of law" than the principle we invoke in the present case.

(2) Even if an alien immigrant may not be a person wholly within the scope of the Fifth Amendment, nevertheless, according to the rules which prevail in all civilized nations, in the absence of express language authorizing him, no administrative officer of the government may execute a provision of the statute when thereby he subjects the person proceeded against to a re-trial for the same offense upon which he has already been tried and acquitted by a tribunal constituted and authorized to hear and determine the same charge under and by virtue of the provisions of the same laws.

Japanese Immigrant Case, 189 U. S., 99, 100.

(3) As we have seen in the case of the Japanese Immigrant, *supra*, the Supreme Court has practically decided that aliens are to be clothed with the protection of the principles contained in the Fifth Amendment.

(*a*) That a person once tried and acquitted before a duly constituted tribunal, with full power to investigate the charge made, may not again be tried upon the same charge, is too well settled as one of the principles inhering in "due process of law" to require citation of authorities.

The question is squarely presented whether an alien, who has once been detained, examined and unanimously acquitted under the provisions of Sections 24 and 25 of the Act may, nevertheless, be arrested and examined on the same charge whenever and as often as the Secretary shall see fit, and, be deported.

The contention of the Government involves obvious hardship and unfairness to the aliens, clear violation of the Constitution, absolute contradiction of the plain words of the statute, and is without support of the existence of any language in the statute or of any necessary destruction of the purposes for which warrant proceedings may be lawfully *and frequently* resorted to.

Counsel for respondent further contended that to restrict the power of the Secretary as conferred by Section 21 by decision of the Board, as provided in Section 25, would necessarily destroy the power conferred by Section 21. *This is obviously wrong.* Many cases are constantly occurring where the immigrant enters the United States without even being challenged, and where the Board of Special Inquiry, as constituted under Section 25, has *never acquired jurisdiction* or *investigated* the alleged violation. In such cases the immigrant is still subject to deportment under Section 21.

In fact the two proceedings constitute a complete scheme; the warrant proceedings under Section 21 applying where there had never been any challenge or investigation; the proceedings under Section 25 by the Board of Special Inquiry applying where, as in the present case, challenge was made and the immigrant detained, investigated and admitted. So *that each proceeding applies in its proper fie d.*

The warrant proceedings authorized by the Statute and the procedure provided by Sections 21 and 25 of the Act may exist together harmoniously and be applied each in their appropriate field without adding the power of revision in the one proceeding over the other, and thus the Act may be construed harmoniously and effect given to both provisions without violating the fundamental law of the land and the plain import of the language of the Act.

We have seen that where the decision of the Board of Special Inquiry is unanimous the Secretary was prevented from reviewing such decision.

It is senseless, therefore, to contend that Congress, while intending to prevent the Secretary from reviewing the decision of the Board under such circumstances, still gave him power practically to review it by instigating an examination himself.

In other words, that the Secretary might defeat the statutory proceeding and a decision under Section 25 by indirection, which he could not accomplish directly.

Such construction is contrary to all the well settled canons.

In *Lau Ow Bew* vs. *United States*, 144 U. S., 47, on page 59, the Court uses the following language:

"Nothing is better settled than that statutes should receive a sensible construction, such as will effectuate the legislative intention, and, if possible, so as to avoid an unjust or an absurd conclusion (*Church of the Holy Trinity* vs. *United States*, 143 U. S., 457; *Henderson* vs. *Mayor of New York*, 92 U. S., 259; *United States* vs. *Kirby*, 7 Wall, 482; *Oates* vs. *National Bank*, 100 U. S., 239)."

Statutes are to be construed so as to harmonize their provisions.

A harmonious construction is to be preferred which will avoid glaring abuse even under a statute termed "drastic" by the Circuit Court of Appeals (p. 44).

THE SECRETARY IN THIS CASE HAS LEGISLATED.

His construction renders nugatory the provisions of Section 25, which makes the decision of the Board of Special Inquiry final when unanimous in favor of the alien.

IX.

Suspicion may not be substituted for evidence to satisfy the Secretary.

While the courts have held that they would not consider the question of the *sufficiency* of the evidence upon which the immigration officials have decided or issued their warrant, nevertheless, as the law required some evidence, the courts have always reserved the right to hold as matter of law that there was no evidence on which the conclusion could be rested or action based.

Turner vs. *Williams*, 194 U. S., 279, 284.

There certainly was no evidence of any violation of the law over and above that disclosed on the first examination by the Board of Special Inquiry, upon which the petitioners were admitted.

Respondent's counsel in his brief before the Circuit Court of Appeals, and the Secretary in his decision (Exhibit 6, p. 169, *fols.* 506, 507) rest their case upon the claim that an illegal understanding existed because the aliens, on their first examination, stated that they were going to Wilkesbarre, but immediately upon being discharged went directly to Gouverneur. There was no evidence to support this claim.

Peter Pearson testified (*fol.* 44):

"Q. Where are you going? A. Going to stay in New York a day or two, and then we are going to a brother of mine in Wilkesbarre, Pa."

(*fol.* 45):

"Q. Have you got a ticket to your destination? A. No."

(*fol.* 46):

"Q. How long did you intend to stay in Wilkesbarre? A. I could not say; I couldn't give any definite period." * * *

(*fol.* 52):

"Q. Know whether there is any lace establishment in Gouverneur, N. Y.? A. Yes; because this Lesser told me that."

(*fol.* 59):

"Q. You will take employment wherever you are able to receive it? A. Certainly."

Enoch Pearson testified generally (*fol.* 63) that he was going to stay with his brother Peter; wherever Peter went, Enoch was going.

John Wakefield testified (*fol.* 68):

"Q. You have no relatives or friends in this country? Except the Pearsons coming with you? A. No, sir.
Q. No address to go to except with them? A. No, sir."

On the second examination before the same Board Wakefield testified (*fol.* 159):

"Q. Where did you propose to go yourself? A. I did not propose to go anywhere, only with my companions."

(*Fol.* 160):

"Q. You were *subject to change of mind* at any time? A. Yes."

Peter Pearson testified (*fol.* 237):

"Q. After you arrived and left here, where did you go? A. We went to New York and walked

around and had something to eat, and then my brother and we went to Mr. Lesser's. * * *

Q. After you were permitted to land, what did you do then? A. It was late in the day, it was very cold, and we went and had something to eat and then of course I knew that Mr. Lesser was in New York.

Q. Had you known Mr. Lesser? A. Yes, sir.

Q. How many years had you known him? A. I could not say exactly. I saw him come to the firm where I worked, and I went there to see what he could do for me.

Q. Then you went to his place on that day? A. Yes, sir. * * *

Q. Who went with you? A. My brother and John Wakefield.

Q. Well, tell us as near as you can, what occurred when you saw Mr. Lesser? A. Well, when I saw Mr. Lesser he was surprised to see me here. I told him my business here, and I told him what I was after; asked him whether——

Q. What did he say? A. I asked him if he had a good situation. I told him that I had sold my business, of course, and that I had come to this country to get work.

Q. Yes? A. And that my brother was with me as well; whether he had anything; whether he could find me a situation as a corrector.

Q. What did he say? A. He told me that he could not give me a position at that, as he already had a man as corrector and reader, too.

Q. What did he say? A. He said that I could go up to Gouverneur, and there might be a chance of a situation as assistant manager. Of course, I never had been assistant manager before in my life. Of course, I have been among machines all of my life, and I felt myself fully qualified to take such a position, and naturally when he offered it to me I was very glad to take it.

Q. Go on and give as much of the conversation with Mr. Lesser as you can remember? A. I told him first of all that *my idea was to go to Wilkesbarre*, but he did not seem to want me to go there. I told him that I had my brother there, but he wanted us to go to Gouverneur, and if we would go there

right away, he would undertake to pay all of the expenses, so as we could come back to New York if we did not get a situation" (*fols.* 258, 259, 260 and 261).

And again (*fol.* 264):

"Q. Who paid your passage from here to Gouverneur? A. Mr. Lesser. I wanted to go to Wilkesbarre, and he said that if we would go up with this young man that was going up there that night, he would undertake to pay our expenses.

Q. Pay your expenses up there whether you got a situation or not? A. Yes, sir."

In all this there was *no foundation for the suspicion* of the Secretary or of the appellant's counsel.

The evidence shows nothing more than intention to obtain work wherever possible, and change of destination from Wilkesbarre to Gouverneur *after* prospect of employment occurring subsequent to admission.

Mere arbitrary "satisfaction" of the Secretary is not a compliance with the law, either in letter or in spirit. Under the rules promulgated with regard to the deportation proceeding, printed in the record at pages 10 to 12, no warrant for arrest and detention may be issued except based upon information, and, therefore, may not be arbitrarily issued.

Rule 5 (*fol.* 34) refers specifically to the *evidence* upon which the Secretary acts in directing an alien's arrest.

SUSPICION MAY NOT TAKE THE PLACE OF EVIDENCE.

We respectfully submit that on the second examination of the petitioners the evidence was substantially the same as upon the first, and that there was nothing in addition upon which the Secretary relied except unwarranted suspicion.

Over and above all other considerations there stands concededly before the Court in the present case the effort on the part of the Secretary *to re-try* these aliens upon the *same charge* for which they had *already undergone full* trial and acquittal before a tribunal duly constituted by Congress *to hear and determine* the offense.

Such a proceeding is abhorrent to the principles of common law, and of all civilized communities, and cannot find support in statutory construction, except in a community where not only despotism prevails, but all sense of common fairness is absent.

X.

As to the construction of the statute in question, and, indeed, of all acts of Congress, the jurisdiction of the Federal courts is ample and exclusive in all cases arising under the execution of such statutes, and the question now presented is wholly and exclusively within the jurisdiction of this Court.

The writ of habeas corpus was the proper remedy to be invoked by the petitioners.

The duty of the courts to examine and determine the right of any individual restrained of his personal liberty to be discharged from such restraint, and incidentally to determine the jurisdiction of any official attempting to exercise such restraint, has been emphatically reaffirmed in the last case before the United States Supreme Court, in which the Act of March, 1903, was involved.

Turner vs. *Williams*, 194 U. S., 279, 295.

XI.

We have not gone into the merits as to the charge made against the aliens solely because of the settled rule that the sufficiency of the evidence upon which the department decides is not reviewable by the courts.

There was no violation of the law, and the evidence adduced, if passed upon by any tribunal, guided by the ordinary rules in weighing and considering testimony and evidence, and endowed with intelligence, such as is required by every civilized community from those to whom it entrusts such power and duty, would necessitate the free admission of all of the petitioners.

Merely because three of the resident weavers of Nottingham coming to the United States without previous promise or inducement or offer, on their arrival in the port of New York are held for examination, and state that they are going to Wilkesbarre, and subsequently on being released, and while waiting in the same city they call upon in the same city a person who has, for many years, been in the habit of visiting Nottingham to buy goods there, and latterly to buy machinery for making such goods, are offered transportation to his factory and return, to enable them to apply for employment, if it can be given, and accept such offer instead of going to Wilkesbarre, where they had no definite offer, the Secretary has seen fit to find a violation of the law.

We respectfully submit that such conclusion was based upon unjustified suspicion, and is without the support of any evidence.

The foregoing statement is made, because we wish it to be known that we invoked the aid of the Court in the discharge of the petitioners, not merely as a technical right, but as a relief from gross injustice and oppression, for which the writ is, and always has been, the approved remedy.

It is respectfully submitted that a writ of *certiorari* should be granted.

April, 1905.

EDWARD LAUTERBACH,
EUGENE TREADWELL,
Counsel for Petitioners.

(Opinion.)

Opinion, Circuit Court.

UNITED STATES CIRCUIT COURT.

In the Matter

of

The Application of PETER PEARSON, ENOCH PEARSON and JOHN WAKEFIELD for a Writ of *habeas corpus.*

LACOMBE, J.:

The old act made the decision of the Board of Special Inquiry final when adverse to the alien; the new act makes the decision final (except for appeal to Secretary of the Treasury), without any such qualification. The change is significant, and the unanimous decision of the Board in this case in favor of entry and against deportation should be taken as conclusive. The relators are discharged—order will be settled on notice so that the Commissioner may take an appeal if so advised.

May 12, 1904.

Opinion Circuit Court of Appeals.

UNITED STATES CIRCUIT COURT OF APPEALS,

FOR THE SECOND CIRCUIT.

No. 129—October Term, 1904.

PEARSON *et al.*,
Appellees,

vs.

WILLIAMS, Commissioner, etc.,
Appellant.

Decided February 24, 1905.
Appeal from the Circuit Court of the United States for the Southern District of New York.
Before WALLACE, TOWNSEND and COXE, Circuit Judges.

WALLACE, Circuit Judge:

This is an appeal by the Commissioner of Immigration at the port of New York from an order in *habeas corpus* discharging the appellees from his custody. The appellees were aliens in the custody of the commissioners under a warrant of the Secretary of Commerce and Labor. They arrived at the Port of New York about February 1, 1904, and were detained for examination before a Board of Special Inquiry to ascertain whether they had come to this country in violation of law. The board, after hearing evidence, decided in their favor, and they were by its unanimous decision allowed to land. Thereafter, and on or about March 21, 1904, the Secretary of Commerce and Labor issued a warrant under which they were held in custody by the appellant, pending an inquiry to ascertain whether they were here in violation of law as alien laborers who had come here under a previous contract to per-

form service. All the proceedings were had pursuant to the act of Congress of March 3, 1903, entitled "An act to regulate the immigration of aliens into the United States." The pertinent provisions of this act are these: Section 21 provides that in case the Secretary of the Treasury shall be satisfied that an alien has been found in the United States in violation of the act, he may cause such alien, within a period of three years after landing, to be taken into custody and deported. Section 24 provides that any alien who may appear to the examining immigrant inspector at the port of arrival not to be clearly and beyond doubt entitled to land shall be detained for examination in relation thereto by a Board of Special Inquiry. Section 25 provides that such board shall consist of three persons to be selected by the Commissioner-General of Immigration from the immigrant inspectors in his service, with the approval of the Secretary of the Treasury, and shall have authority to determine whether an alien who has been duly held shall be allowed to land or deported * * * and that the decision of any two members of the board shall prevail and be final; but that either the alien or any dissenting member of said board may appeal * * * to the Secretary of the Treasury, whose decision shall be final.

The powers conferred by these provisions upon the Secretary of the Treasury were subsequently vested in the Secretary of Commerce and Labor (Act of February 14, 1903).

It is insisted for the appellees, and this contention prevailed in the court below, that the decision of the Board of Special Inquiry, no appeal from it having been taken, was final. The examination before that Board was addressed to the inquiry whether the aliens had come to this country in violation of

law as contract laborers; and it is urged that the decision of the board is *res adjudicata* upon that question, and conclusive of their right to enter and remain.

We are of the opinion that the decision of the board has no other effect than a determination that the alien shall be permitted to land; that its functions are confined to this initial inquiry; and that it is competent for the Secretary of Commerce and Labor at any subsequent time during the three years, upon becoming satisfied that the alien who has been allowed to enter is notwithstanding here in violation of law to exercise the power of deportation. The board is a subordinate tribunal whose powers extend merely to the decision of the particular inquiry committed to it, and any adjudication beyond this, even if it were to be regarded as a judicial decision, would be *coram non judice*.

The existing provisions of law are substitutes for provisions of the earlier acts regulating the immigration of aliens. By Section 8 of the act of March 3, 1891, it was committed to the inspection officers at every place of arrival to detain alien immigrants for examination. They were authorized to administer oaths and take and consider testimony touching the right of such aliens to enter the United States, and it was provided that all decisions made by them "or their assistants" touching the right of any alien to land when adverse to such right should be final unless an appeal should be taken to the Superintendent of Immigration, and that his action should be subject to review by the Secretary of the Treasury. By Section 11 of that act it was provided that any alien who should come into the United States in violation of law might be returned as by law provided at any time within one year thereafter. By an act of October 19, 1888

(25 Stats. at L. 565), the Secretary of the Treasury had been authorized, in case he should be satisfied that an immigrant had been allowed to land contrary to the law prohibiting the immigration of laborers under previous contract, to cause the immigrant within the period of one year after landing or entering to be taken into custody and returned to the country whence he came. Speaking of these enactments in Japanese Immigrant Case (189 U. S., 99) the Supreme Court used this language: "Taking all its enactments together it is clear that Congress did not intend that the mere admission of an alien or his mere entering the country should place him at all times thereafter entirely beyond the control or authority of the executive officers of the government. On the contrary, if the Secretary of the Treasury became satisfied that the immigrant had been allowed to land contrary to the prohibition of that law, then he could at any time within a year after the landing cause the immigrant to be taken into custody and deported. The immigrant must be taken to have entered subject to the condition that he might be sent out of the country by order of the proper executive officers if within a year he was found to have been wrongfully admitted into it, or illegally entered the United States." By the present act the time within which this power could be exercised by the Secretary of the Treasury was extended to the period of three years after the landing or entering of the immigrant, and was subsequently transferred to the Secretary of Commerce and Labor. It is the plain purpose of the drastic legislation embodied in the immigrant exclusion acts to provide every possible safeguard against the abuse by aliens of the prohibited classes of the privilege of coming to or remaining within this country. There is no repugnance between the

power conferred upon the Board of Special Inquiry and that conferred upon the secretary. The former is to be exercised summarily, and while the immigrant is under detention awaiting the result of the inquiry. The board has no authority to compel the attendance of witnesses, and must decide upon such evidence as is at hand or is readily accessible. Of necessity its decisions do not have the quality of even approximate infallibility. It is hardly conceivable that Congress should have intended that such a decision should be a final determination of the status of the alien. Manifestly Congress intended not only that the secretary might review the question whether he should be allowed to enter upon an appeal from the decision, but also that at any time within three years the secretary should have the power to reconsider the broader question of the right of the alien to remain, and upon reaching an adverse conclusion to order his deportation. This is not a power to be exercised arbitrarily, and deportation is to be ordered only after giving the alien an opportunity to be heard upon the questions involving his privilege. In the present case before deportation of the aliens had been ordered they had been heard; and it is to be presumed that the power of deportation would not have been exercised unless after a fair hearing the secretary had become convinced that they were here in violation of law.

The order is reversed, with instructions to remand petitioners to custody of respondent.

Judge Coxe dissents.

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Supreme Court U. S.
FILED
MAR 29 1906

Supreme Court of the United States.

OCTOBER TERM, 1905.

No. 237.

PETER PEARSON AND ENOCH PEARSON,
Petitioners,

vs.

WILLIAM WILLIAMS,
UNITED STATES COMMISSIONER OF IMMIGRATION AT THE PORT OF NEW YORK,
Respondent.

BRIEF FOR PETITIONERS

On Writ of Certiorari to the United States Circuit Court of Appeals for the Second Circuit.

EUGENE TREADWELL,
Counsel for Petitioners.

United States Supreme Court.

PETER PEARSON AND ENOCH PEARSON,
Petitioners,

against

WILLIAM WILLIAMS, United States Commissioner of Immigration at the Port of New York,
Respondent.

October Term 1905.
No. 237.

Brief for Petitioners on Certiorari.

STATEMENT.

The record shows that the Circuit Court of Appeals for the Second Circuit, by a divided Court, two of the Judges therein concurring, and one thereof dissenting, reversed the judgment of the Circuit Court of the Southern District of New York, which, after a hearing upon a writ of *habeas corpus* brought by the petitioners, together with one John Wakefield, against the above-named respondent, sustained the writ and discharged the said petitioners from custody.

The judgment of the Circuit Court of Appeals was rendered upon an appeal by the United States Commissioner of Immigration at the Port of New York from the order of the Circuit Court for the Southern District of New York (Transcript of Record, top p. 112), made and entered the 10th day

of June, 1904, discharging the petitioners from the custody of the said Commissioner, who held them for deportation to the country from which they came under and by virtue of a warrant or order of the Secretary of Commerce and Labor (p. 109). There was no question of fact at issue on this appeal. The return did not deny the facts set forth by the petition. The answer (p. 110) filed by the petitioners did not deny any of the facts set forth in the return made by the said Commissioner to the *writ of habeas corpus* granted on the petition of the said petitioners (p. 107). The material facts as they appear in the petition, and the return (pp. 2, 3, 107, 109) are as follows:

Both petitioners are aliens (p. 2) and arrived at the Port of New York from England, on or about February 1, 1904 (p. 3). Upon their arrival, on or about February 1, 1904, the said petitioners were detained at said port under the provisions of law (p. 3) and thereupon they were examined by a Board of Special Inquiry duly appointed for the said Port of New York, which said Board of Inquiry consisted of Messrs. Moler (chairman), and Weihe and Eppler, Inspectors, and which said Board of Special Inquiry was appointed and acted pursuant to Section 25 of the Act of Congress, approved March 3, 1903, entitled, "An Act to Regulate the Immigration of Aliens into the United States" (p. 8).

The petitioners, and each of them (p. 3) were duly sworn, fully and exhaustively examined upon complaint made as to an alleged violation of the laws of the United States in coming as aliens to the United States, under contract or agreement, parol or special, express or implied, offer, solicitation, promise or agreement, to perform labor or service therein, and more particularly, for or in connection with Joseph S. Lesser, of the International Lace Manufacturing Company, of Gouverneur, New

York, and at the close of such examination the decision of the said Board was unanimously in favor of the petitioners, and the petitioners were unanimously admitted.

Subsequently they were arrested upon a warrant issued by the Secretary of Commerce and Labor, bearing date March 21, 1904 (p. 30), and were taken before a Board of Special Inquiry consisting of the same persons, to wit: Messrs. Moler, Chairman, and Weihe and Eppler, Inspectors (p. 29), who constituted the same Board of Special Inquiry that acted in the case of the said petitioners on or about February 1, 1904, and the said petitioners arrested as aforesaid on the warrant dated March 21, 1904, were given opportunity to show cause why they should not be deported from the United States (Pars. 3, 4 and 5 of the Petition (pp. 2–3). This same Board of Special Inquiry had before decided unanimously that the petitioners should be admitted to the United States (pp. 16, 17).

Neither in the evidence upon which the Commissioner of the Department of Commerce and Labor issued his said warrant for the arrest of the petitioners, nor in the evidence or testimony taken before the Board of Inquiry, pursuant to said warrant, on the 29th and 30th days of March, 1904, copies of all of which evidence, testimony and papers have been annexed to the petition for the *habeas corpus*, and are contained in the Exhibits 3 (pp. 8–29), 4 (pp. 29–101), and 5 (pp. 102–103), appeared, or was even suggested, any other charge or violation of law than the same charge or violation, viz.: of coming as aliens to the United States under contract or agreement, parol or special, expressed or implied, promise, offer, solicitation or encouragement, with, by, or from the said Joseph S. Lesser or the International Lace Manufacturing Company, of Gouverneur, New York, upon which said charge the previous decision of the said Board of Special Inquiry lawfully consti-

tuted and unanimously made in favor of the said aliens, was by the statute final and without review.

The Board of Special Inquiry at the second hearing as aforesaid, commenced at Ellis Island, New York, March 29, 1904 (p. 29), took testimony as to whether the petitioners were justly and properly entitled to be allowed to land in the United States at the time of their arrival at the Port of New York, to wit: on or about February 1, 1904. The said Board of Special Inquiry after weighing and considering the evidence given on the last hearing, did not make a decision in reference thereto, but recommended that two of said petitioners, to wit: Peter Pearson and Enoch Pearson, should be deported, and that the other alien, to wit: John Wakefield, should be discharged (p. 3, Par. 5, admitted in answer, p. 108).

The affidavits upon which the warrant for the arrest of the petitioners was issued by the Secretary (Exhibit 3, pp. 17–28) charge the same alleged violation and no other, relating, as all of them do, to the question of employment of the petitioners by Joseph S. Lesser or the Gouverneur Company.

The decision of the Secretary (Exhibit 6, p. 118) charges the same alleged violation, viz.: employment by Joseph S. Lesser, or the Gouverneur Company, and no other.

The Secretary of Commerce and Labor decided that the said petitioners who landed at the Port of New York, on the 1st day of February, 1904, were in this country in violation of the Acts of Congress, approved February 26, 1885, February 23, 1887, March 3, 1891, and March 3, 1903, and he thereupon on May 3, 1904, issued a warrant for their deportation (p. 109).

Before the decision and the issue of the warrant of deportation, and while these petitioners were in the custody of the respondent, they commenced a *habeas corpus* proceeding wherein an order was

made directing their discharge (p. 112). Pending the determination of an appeal, the petitioners were released on bail to answer the final judgment of the Circuit Court of Appeals (p. 113).

That the Secretary's deportation proceedings from beginning to end, were based solely upon the identical charge of violation of the statute, employment, etc., by Joseph S. Lesser or the Gouverneur Company, upon which charge the petitioners had been previously challenged, arrested on the Cunard Dock, and held for examination by the Special Board of Inquiry, and thereafter sworn and fully examined by said Board, and by it unanimously admitted, was specifically alleged in the petition (p. 4, Par. IX.) was not denied or controverted by the return, and is therefore admitted.

The decision of the Circuit Judge sustaining the writ and discharging the aliens (p. 107) was based upon the ground that the old act making the decision of the Board of Special Inquiry final when adverse to the alien, the new act making the decision final without any such qualification, the change was significant and the unanimous decision of the board in favor of the aliens should be taken as conclusive.

The Circuit Court of Appeals (p. 129) reversed the Circuit Judge on the ground that the Special Board of Inquiry was subordinate to the Secretary, and that the Secretary was vested by the provisions of section 21 of the Act of March 3rd, 1903, with authority to investigate and report independently of and adversely to the unanimous decision of the Board of Special Inquiry upon the same question.

The Circuit Court of Appeals did not find the disclosure by the warrant proceedings instituted by the said Secretary of any fraud upon the part of the aliens in coming into the country, or of any additional evidence of any violation of the law.

STATUTES.

(1) The following are the Acts of Congress pertinent to the subject :

Act of February 26, 1885 (23 Stat. L., 332), Sections 2. and 5.

Amendment October 19, 1888 (25 Stat. L., 565).

Amendment Act March 3d, 1891, Section 8, (26 U. S., Stat. L., 1084).

Act of March 3d, 1893, Section 5 (27 Stat. L., 569).

Appropriations Act, August 18, 1894 (2 Sup., U. S. R. S., p. 253).

Act of March 3d, 1903, Sections 2, 20, 21, 24, and 25 (32 U. S., Stat. L., 1213).

Act of February 14, 1903, Establishing Department of Commerce and Labor, Section 7.

(2) The statutory authority, under which the Commissioner claims the right to issue his warrant and take the proceedings had herein, was at first incorporated in the amendment of October 19, 1888, (25 Stat. L., 565) ; and subsequently re-enacted in the Act of March 3d, 1903, Section 21.

Sections 20 and 21 are as follows (italics ours):

"Sec. 20. That any alien who shall come into the United States in violation of law, or who shall be found a public charge therein, from causes existing prior to landing, shall be deported as hereinafter provided to the country whence he came at any time within two years after arrival at the expense, including one-half of the cost of inland transportation to the port of deportation, of the person bringing such alien into the United States, or, if that can not be done, then at the expense of the immigrant fund referred to in section one of this Act.

Sec. 21. That in case the Secretary of the Treas-

ury shall be satisfied that an alien has been found in the United States in violation of this Act he shall cause such alien, within the period of three years after landing or entry therein, to be taken into custody and returned to the country whence he came, as provided in section twenty of this Act, or, if that cannot be so done, at the expense of the immigrant fund provided for in section one of this Act; and neglect or refusal on the part of the masters, agents, owners, or consignees of vessels to comply with the order of the Secretary of the Treasury to take on board, guard safely, and return to the country whence he came any alien ordered to be deported under the provisions of this section shall be punished by the imposition of the penalties prescribed in section nineteen of this Act."

(3) The provisions for the detention and examination of aliens on their arrival appeared first in the Act of March 3d, 1891, Section 8, which was subsequently amended by the Act of March 3d, 1893, Section 5, which was again amended by the Act of March 3d, 1903, Sections 24 and 25, the provisions now in force.

Sections 24 and 25 are as follows (italics ours):

"Sec. 24. That immigrant inspectors and other immigration officers, clerks, and employees shall hereafter be appointed, and their compensation fixed and raised or decreased from time to time, by the Secretary of the Treasury, upon the recommendation of the Commissioner-General of Immigration and in accordance with the provisions of the civil-service Act of January sixteenth, eighteen hundred and eighty-three: Provided, That nothing herein contained shall be construed to alter the mode of appointing commissioners of immigration at several ports of the United States as provided by the sundry civil appropriation Act approved August eighteenth, eighteen hundred and ninety-four, or the official status of such commissioners heretofore appointed. Immigration officers shall have power to administer oaths and to take and consider testimony touching the right of any alien to enter the United

States, and, where such action may be necessary, to make a written record of such testimony, and any person to whom such an oath has been administered under the provisions of this Act who shall knowingly or wilfully give false testimony or swear to any false statement in any way affecting or in relation to the right of an alien to admission to the United States shall be deemed guilty of perjury and be punished as provided by section fifty-three hundred and ninety-two, United States Revised Statutes. The decision of any such officer, if favorable to the admission of any alien, shall be subject to challenge by any other immigration officer, and such challenge shall operate to take the alien whose right to land is so challenged before a board of special inquiry for its investigation. *Every alien who may not appear to the examining immigrant inspector at the port of arrival to be clearly and beyond a doubt entitled to land shall be detained for examination in relation thereto by a board of special inquiry.*

Sec. 25. That such boards of special inquiry shall be appointed by the commissioners of immigration at the various ports of arrival as may be necessary for the prompt determination of all cases of aliens detained at such ports under the provisions of law. Such boards shall consist of three members, who shall be selected from such of the immigrant officials in the service as the Commissioner-General of Immigration, with the approval of the Secretary of the Treasury, shall from time to time designate as qualified to serve on such boards: Provided, That at ports where there are fewer than three immigrant inspectors, the Secretary of the Treasury, upon recommendation of the Commissioner-General of Immigration, may designate other United States officials for service on such boards of special inquiry. *Such boards shall have authority to determine whether an alien who has been duly held shall be allowed to land or be deported. All hearings before boards shall be separate and apart from the public, but the said boards shall keep complete permanent records of their proceedings and of all such testimony as may be produced before them; and the decision of any two members of a board shall pre-*

vail and be final, but either the alien or any dissenting member of said board may appeal, through the commissioner of immigration at the port of arrival and the Commissioner-General of Immigration, to the Secretary of the Treasury, whose decision shall then be final; and the taking of such appeal shall operate to stay any action in regard to the final disposal of the alien whose case is so appealed until the receipt by the commissioner of immigration at the port of arrival of such decision."

Assignment of Errors.

1. The Circuit Court of Appeals erred in holding that the unanimous decision of the Board of Special Inquiry allowing the petitioners Peter Pearson and Enoch Pearson to land, was not conclusive or *res adjudicata* upon their right to remain in the United States.

2. The Circuit Court of Appeals erred in holding that the said Peter Pearson and Enoch Pearson entered the United States subject to the condition that they might be deported by order of the Secretary of Commerce and Labor.

3. The Circuit Court of Appeals erred in holding that the warrant of the Secretary of Commerce and Labor was valid and with authority in law, in view of an unanimous decision of the Board of Special Inquiry admitting the said petitioners.

4. The Circuit Court of Appeals erred in not holding that under the facts as disclosed in the case the unanimous decision of the Board of Special Inquiry admitting the said persons was *res adjudicata* and binding upon the Secretary of Commerce and Labor.

5. The Circuit Court of Appeals erred in not holding that, the violation of law charged by the Secretary of Commerce and Labor in his warrant proceedings, being the same violation as charged against the said persons before the Board of Special Inquiry and unanimously decided in their favor by the Board, the warrant of the Secretary of Commerce and Labor was without authority in law.

6. The Circuit Court of Appeals erred in holding that the warrant of the Secretary of Commerce and Labor deporting the said petitioners was valid in law or authorized, in view of the unanimous de-

cision of the Special Board of Inquiry admitting them, and in the absence of fraud or of any additional evidence of any violation of the law.

7. The Circuit Court of Appeals erred in deciding that the said Peter Pearson and Enoch Pearson were lawfully restrained of their liberty and in holding the said Peter Pearson and Enoch Pearson in custody and in adjudging that they are not entitled in law to remain in the United States.

8. The Circuit Court of Appeals erred in dismissing the writ of habeas corpus herein and in remanding the said Peter Pearson and Enoch Pearson to the custody of the Commissioner of Immigration at the Port of New York.

POINTS.

I.

No provision authorizing warrant proceeding by the Secretary to review a decision of the Board of Special Inquiry acting under Section 25 of the Act of March 3rd, 1903. is to be found in any of the statutes.

No provision is to be found anywhere in the acts relating to a lien immigrants which authorizes warrant proceedings where the aliens have already been proceeded against under the provisions of Sections 24 and 25 of the Act of March 3d, 1903, upon the same charge and for the same alleged violation, and have been unanimously admitted by the Board of Special Inquiry.

II.

The administrative department of the Government, is of limited jurisdiction, and can have no jurisdiction except such as the statute confers.

(1) The rule of limited jurisdiction is well settled.

Harland vs. *U. L. T. Co.*, 40 Fed. R., 310;
Sheldon et al. vs. *Sill*, 8 How. (U. S.), *441, 449.

(2) There was no consent to the jurisdiction, or waiver of the question, by the aliens, they having been under arrest and duress.

(3) Jurisdiction could not be conferred by consent or waiver.

Burt vs. *Greaves*, 3 McCord, 280.
Dudley vs. *Mayhew*, 3 N. Y., 9 and 12.
Burckle vs. *Eckhart*, 3 N. Y., 137.

III.

As to the construction of the statute in question, and, indeed, of all acts of Congress, the jurisdiction of the Federal courts is ample and exclusive in all cases arising under the execution of such statutes, and the question now presented is wholly and exclusively within the jurisdiction of this Court.

The writ of habeas corpus was the proper remedy to be invoked by the petitioners

The duty of the courts to examine and determine the right of any individual restrained of his personal liberty to be discharged from such restraint, and incidentally to determine the jurisdiction of any official attempting to exercise such restraint, has been emphatically reaffirmed in the last case before the United States Supreme Court, in which the Act of March, 1903, was involved.

Turner vs. *Williams*, 194 U. S., 279, 295.

IV.

Under the Act of March 3d, 1903, the unanimous decision of the Board of Special Inquiry in favor of the aliens is conclusive upon their right to remain in the country.

THE BOARD OF SPECIAL INQUIRY ACQUIRED FULL JURISDICTION IN THE PREMISES.

(1) The last paragraph of Section 24 of the act provides:

"Every alien who may not appear to the Examining Immigrant Inspector at the port of arrival to be clearly and beyond a doubt entitled to land, shall be detained for examination in relation thereto by a Board of Special inquiry."

(*a*) The Immigration Department had received before the arrival of the aliens certain notices (p. 13). Thereafter and on arrival of the aliens at the port of New York, and immediately on leaving the steamship and while on the dock, they were taken in custody by the officials of the Department (p. 3, par. vi.) and forthwith taken before the Board of Special Inquiry.

(*b*) The first paragraph of Section 25 of the act provides as follows:

"Sec. 25. That such Boards of Special Inquiry shall be appointed by the Commissioners of Immigration at the various ports of arrival as may be necessary for the prompt determination of all cases of aliens detained at such ports under the provisions of law. Such boards shall consist of three members * * *."

(*c*) It was conceded by counsel for respondent on both of the arguments below that the Board before which the aliens were taken February 1, 1904, consisting of Messrs. Moler, Weihe and Eppler was a duly constituted Board of Special Inquiry, as provided by the Sections 24 and 25.

(*d*) Section 25 contains the further provision:

"Such Boards shall have authority to determine whether an alien who has been duly held shall be allowed to land or be deported."

CONGRESS BY THIS EXPLICIT LANGUAGE THUS CONFERRED FULL POWER AND JURISDICTION UPON THE BOARD OF SPECIAL INQUIRY TO HEAR AND *determine* THE QUESTION.

This tribunal thus specially constituted by Congress was by the same section clothed with other *indicia* common to tribunals of judicial character.

(*e*) The section provides:

"All hearings before Boards shall be separate and apart from the public, but the said Boards shall keep complete permanent records of their proceedings and of all such testimony as may be produced before them."

(*f*) From the foregoing it appears that Congress had thus specifically created a complete and independent system of detention and examination of alien immigrants upon alleged violations of the law.

(2) There can be no doubt, and no question has been made by the Government anywhere in these proceedings, but that the Board of Special Inquiry before whom the aliens were brought in February

1, 1904, had by force of the provisions of Sections 24 and 25, full power to entertain the charge of violation of the statute by the aliens in coming into the country to perform labor therein under alleged employment, inducement, etc., by Joseph S. Lesser or the Gouverneur Company.

(*a*) The minutes of the examination which ensued (pp. 8 to 16) show, and it is conceded, that the Board examined the aliens under oath, fully and at length, in relation to the charge above mentioned.

(*b*) The examination was conducted to the limit desired by the Board; and upon its conclusion by the Board the aliens were admitted by the *unanimous* vote of the Board (pp. 16, 17).

(3) Congress made this unanimous decision final.

(*a*) Section 25 proceeds as follows:

"And the decision of any two members of a Board shall prevail and be final but either the alien or any dissenting member of the said Board may appeal, through the Commissioner of Immigration at the port of arrival and the Commissioner-General of Immigration, to the Secretary of the Treasury, whose decision shall then be final."

(*b*) The decision of the Board is thus made final by explicit language. Appeal is only provided where the decision is adverse to the alien, in which case it may be taken by the alien; or where the decision is made by a divided Board, in which case the appeal may be taken by the dissenting member.

(4) DECISION WAS FINAL AS TO THE SECRETARY AS WELL AS THE COURTS.

Respondent's counsel contended that the decision

is not final as to the Secretary, but only final as to the Courts.

The restriction contended for is not permissible.

The language of the section is plain and specifically includes the Secretary.

By cutting off all appeal to him in case of a unanimous decision it specifically excludes him.

Where the language is not ambiguous its plain import must be followed and there is no room for construction.

U. S. vs. *Bowen*, 100 U. S., 508, 513.
Tompkins vs. *Hunter*, 149 N. Y., 117, 123.

V.

The Circuit Court rightly decided that the change in the law made the decision of the Board of Special Inquiry final.

The rule of construction to be followed with regard to the present act is the same as with regard to the original act of February 26, 1885.

In construing these statutes we are to get at the spirit and meaning of the act, regarding the evil which is designed to remedy, and looking at the situation as it existed, including the interpretation by the Courts of the previous statutes as they were known to Congress at the time of the passage of the present act.

Church of the Holy Trinity vs. *United States*, 143 U. S., 457, 463.
United States vs. *Wong Kim Ark*, 169 U. S., 649, 657.
In re. Ellis, 124 Fed. Rep., 637, 641.

The Act of March 3rd, 1891, Section 8, contains the following:

"All decisions made by the inspection officers or their assistants touching the right of any alien to land when adverse to such right shall be final unless appeal be taken to the Superintendent of Immigration, whose action shall be subject to review by the Secretary of the Treasury."

The subsequent Appropriation Act of August, 1894 (2 Supp. R. S., 253) contains the following:

"In every case where an alien is excluded from admission into the United States * * * the decision of the appropriate immigration or customs

officers if adverse to the admission of such alien shall be final, unless reversed on appeal," etc.

These provision, which are substantially alike, were the provisions which were in force and received the construction of the Courts *in all of the cases hitherto arising* under the Contract Labor Laws, including those cited below by counsel for appellant.

Lem Moon Sing vs. *U. S.*, 158 U. S., 538, 547.

Li Sing vs. *U. S.*, 180 U. S., p. 490.

U. S. vs. *Lau Sun Ho*, 85 Fed. R., 422.

Chain Chio Fong vs. *U. S.*, 133 Fed. R., 154.

Japanese Immigrant Case, 189 U. S., 86.

In all of these cases the Court held that under the terms of the statute the decision of the immigration officer was only final "when adverse to the alien."

It is also to be noted in this connection, that during all this time the decision was that of a single official with no safeguards provided for arriving at the truth of such challenge or complaint, and no examination under oath on the charge.

The proceeding was summary, informal and arbitrary.

No charge having been made to the inspector, he would obviously be without a guide in his examination, which, under the circumstances, would usually be perfunctory and limited to an inquiry as to nationality, in view of the Chinese Exclusion Act, and to examine for physical defects or existing disease.

The law thus remained unchanged until the Act

of March 3rd, 1893, when a different procedure was instituted.

Under Section 5 of that Act the inspector instead of passing at once upon the admission of the alien as under the previous acts, was obliged to detain *every alien* (unless it clearly appeared to him that such alien was entitled to admission) for a special inquiry before a board of four officials acting as inspectors, to be designated by the head of the department, and no immigrant could be admitted upon such inquiry except upon a favorable decision of at least three of said inspectors.

This was the first creation of a board of special inquiry, and for the first time Congress exhibited an intent to give greater care and attention to the examination and *greater weight to the decision of the Board.*

The finality of the decision was not explicitly provided for; the language used is as follows:

"And any decision to admit shall be subject to appeal by any dissenting inspector to the Superintendent of Immigration, whose action shall be subject to review by the Secretary of the Treasury, as provided in Section 8 of said Immigration Act of March 3rd, 1891."

The finality of the decision was therefore to be inferred in the absence of any appeal or of any dissenting inspector, when the decision was favorable to the alien.

No case appears to have arisen which called for the construction of Section 5 of the Act of 1893.

After a further lapse of ten years, a period exceeding that which had previously elapsed since the enactment of the first contract labor law, Congress again took up the entire subject, collated various provisions together, retaining some in their original

form, and amplifying others, particularly the provisions applying to the detention and examination of immigrants.

CONGRESS BY SECTIONS 24 AND 25 OF THE PRESENT ACT LARGELY AMPLIFIED THE SYSTEM PREVIOUSLY INAUGURATED IN 1893.

Elaborate provisions were introduced with regard to the inspectors, clothing them with power to administer oaths, take testimony and reduce the same to record, providing for the punishment of any person to whom such oath had been administered for the giving of false testimony, subjecting any such primary decision, if favorable to the alien, to challenge, which should bring the alien before the Board of Special Inquiry, and directing that every alien, unless his right to land appeared beyond doubt, should be detained for examination before a Board of Special Inquiry.

Congress also provided with detail in Section 25 for the creation of such board, and, as we have seen, specifically conferred upon such board, authority to determine the question before them.

Such board was made a *board of record* and their majority decision *specifically made final*, subject only to reversal on appeal; and in event of being unanimous not even subject to appeal.

THUS CONGRESS NOT ONLY CHANGED THE LANGUAGE OF THE PREVIOUS PROVISIONS, BUT CHANGED THE SCHEME SUBSTANTIALLY, CLOTHING THE BOARD WITH GREATER POWERS, PROVIDING A PERPETUATION OF THEIR RECORDS, AND RENDERING THEIR DECISION FINAL, SUBJECT ONLY TO REVERSAL IN THE CASES, AND IN THE MANNER, SPECIFIED IN THE SECTION.

The change was significant.

(Opinion of LACOMBE, Circuit J., p. 107.)

Material change of expression imports change of intention.

Am. Ency. of Law (2nd ed.), Vol. 26, p. 652.
U. S. vs. *Bashaw*, 4 U. S. Appeals, 360.

The earlier provisions, as we have seen, had been construed by the courts and held not to render the decision final.

A change made after judicial interpretation of the previous enactment infers that the interpretation was before the Legislature and the change is presumed to have been made to obviate that interpretation.

U. S. vs. *Mooney*, 116 U. S., 104.
U. S. vs. *Cent. Pac. R. Co.*, 118 U. S., 235.
U. S. vs. *Le Bris*, 121 U. S., 278.
Crawford vs. *Burke*, 195 U. S., 176, 190.

Terms which have acquired through judicial interpretation a well understood legislative meaning are presumed to be used by the Legislature in the sense determined by the authoritative decisions.

The Abbotsford, 98 U. S., 440.
Kepner vs. *United States*, 195 U. S., 100, 124.
Hackfeld, &c., vs. *United States*, 197 U. S., 451.

THE SCHEME ADOPTED BY CONGRESS IN THE LATER ACT OF MAKING THE DECISION FINAL WHEN UNANIMOUS IS NOT NOVEL, A PROVISION OF SIMI-

LAR NATURE EXISTING IN THE CODE OF THE STATE OF NEW YORK.

New York Code of Civil Proc., Section 191, subdivisions 2 and 4.

The policy both of Congress and the New York Legislature was to relegate certain questions to the intermediate tribunal for final determination.

Counsel for respondent suggested a limitation of Sections 24 and 25 of the Act of March 3rd, 1903, which would in his view leave the Secretary still with jurisdiction in the present case to issue warrant proceedings under Section 21. He endeavored to make a distinction between the "right to land," as found in Section 25, and the right *to be or remain.*

THE DECISION WOULD THUS ONLY BE FINAL FOR FIVE MINUTES.

No such distinction is made anywhere by the language of the statute itself.

On the contrary, the express language of the statute in many places establishes that the "right to land" and the right to be and remain are the same.

In Section 24 the following language is used:

"Immigration officers shall have power to administer oaths and to take and consider testimony touching the right of any alien *to enter* the United States. * * * Any false statement in any way affecting or in relation to the right of an alien *to admission* to the United States. * * * The decision of any such officer, if favorable to the *admission* of any alien, shall be subject to challenge by any other immigration officer, and such challenge shall operate to take the alien whose right to

land is *so challenged* before a Board of Special Inquiry for its investigation."

In Section 25 is stated the power of the Board before whom is taken the immigrant whose "right to land" is *so challenged*. Such Boards shall have authority to determine whether an alien who has been duly held shall be "allowed to land" or be "deported."

Thus, we have the words "admission" and "right to land" used in close context as synonymous, and furthermore the use of the words, "right to land" in full contradistinction to the word "deported." The word "admission" certainly implies the right to be or remain.

"Deported" is the word also used in the section authorizing the warrant proceedings (Section 21 of the Act).

In the original act (23 Stat., L. 332, approved February 26th, 1885) the language used is "importation to," "migration of" (Sections 1 and 2). In the amendatory act, approved February 23d, 1887 (24 Stat., L. 414, enacting clause), the same words are used. The words used in the Act of March 3d, 1891 (enactment clause) are "excluded from admission." In Sections 10 and 11 of that act the words are "come into." Act of March 30, 1893, Section 5, the words are "entitled to admission," "any decision to admit." In the Appropriation Act, approved August 18th, 1894, the language used is "excluded from admission." The Act of March 3d, 1903, Sec. 2, the language is "shall be excluded from admission."

Thus, we see that the Board of Inquiry, under Section 25, was authorized to do, in case they so found, all that the Secretary was authorized to do by Section 21, namely, to deport. The language used, therefore, is ample to clothe the Board of Special Inquiry with power to decide the question,

not merely whether the immigrant may at *that time*, and for the time being, land from the ship or Immigration Buildings at Ellis Island to the main territory of the United States, but *admission to the United States*, which carries with it the right to remain.

As we have seen, the words "right to land" are used in these sections which provide for a deliberate method of inquiry absolutely as synonymous to admission.

Admission in its ordinary sense, and as applied in such connection, always includes the right to remain; for example, "admission to the bar," "admission to the church," and "admission to citizenship," all include the right to continue in the privileges which admission conferred.

On the examination of February 1st, 1904, by the Board of Special Inquiry, the language used at the close is significant (pp. 16, 17).

> "*Mr. Weihe.*—I move to admit.
>
> * * * * * *
>
> *Mr. Eppler.*—I second the motion to admit.
>
> *Mr. Moler.*—They are admitted.
>
> Aliens unanimously admitted."

The foregoing construction by the Board itself is more in conformity with the language of the statute than the contention of the counsel for the Commissioner, and serves to show how the authorities themselves regarded their action.

VI.

The Circuit Court of Appeals erred in construing the present statute.

1. The Court below erred in relying for authority upon the decision and opinion of this Court in a case arising under different circumstances and a different statute.

The Circuit Court of Appeals, as appears by its decision, printed post page 48, rests its decision upon expressions contained in the opinion of the Supreme Court in the *Japanese Immigrant Case*, 189 U. S., at p. 99. Both in the *Japanese Immigrant case, supra*, and in the case of *United States* vs. *Yamasaka*, 100 Fed. Rep., 404, referred to in the opinion of the Supreme Court in the same connection, the person involved had "clandestinely entered the country" and had never "even been admitted into the country pursuant to law."

Japanese Immigrant Case, supra, p. 98.

U. S. vs. *Yamasaka, supra*, page 405.

The Circuit Court of Appeals, in a case called to our attention since the argument below, seems to have formerly adopted a different construction of a somewhat similar provision, namely, Section 12 of the Act of September 13, 1888 (25 Stat., 476).

In re. Li Sing, 86 Fed. Rep., 896, 897, 898.

The opinion of the Court in that case, by Shipman, J., infering that by the terms of that section,

the decision of the Collector of Customs would have been final.

The expressions in the opinion of the Supreme Court in the *Japanese Immigrant Case*, *supra*, relied upon and quoted by the Circuit Court of Appeals in the present case were made with reference to the condition of the law as embodied in the statutes then existing but since changed, and, moreover, were applicable to the circumstances of that case, which differ radically from those in the present case.

THE PRESENT CASE PRESENTS AN ENTIRELY DIFFERENT ASPECT AND THE STATUTES NOW IN FORCE ARE SIGNIFICANTLY DIFFERENT FROM THOSE INVOLVED UNDER THE EARLIER DECISINS.

In the present case it is conceded that petitioners have been admitted into the country pursuant to law after full examination before the Board of Special Inquiry authorized by the statute, whose unanimous decision was made final by the terms of the same statute.

If the petitioners had surreptitiously entered the country the authority of the Secretary to deport them would have existed under the rule of the *Japanese Immigrant Case* and the subsequent statutory extension of the period from one year to three. The reasoning in the *Japanese Immigrant Case* may not be cited in favor of any greater authority in the Commissioner, and is inapplicable to the changed condition of the statute and the different circumstances of the present case.

2. The Court below erred in holding that the Board of Special Inquiry was a tribunal subordinate to the Secretary of Commerce and Labor.

In the opinion of the Circuit Court of Appeals, on page 130, it is said (post page 50):

"The board is a subordinate tribunal whose powers extend merely to the decision of the particular inquiry committed to it, and any adjudication beyond this, even if it were to be regarded as a judicial decision, would be *coram non judice.*"

The decision of the Board in the present case is conceded to have been within its jurisdiction.

The decision being unanimous in favor of the aliens, no appeal could be taken to the Secretary, who therefore was precluded from reviewing this decision. This Board is therefore, in this respect at least, not a tribunal subordinate to the Secretary.

3. The Court below erred in adopting a construction of the statute which conflicts with the express language thereof.

The opinion, page 131, contains the following language (post page 52):

"Manifestly Congress intended not only that the Secretary might review the question whether he (the alien) should be allowed to enter upon the appeal from the decision."

Here again the Court overlooks the *expressed* intention of Congress to cut off any appeal where the decision was unanimous in favor of the alien, and thus to prevent review by the Secretary.

4. The Court below erred in adopting a construction of the statute which fails to give effect to the material change in the statute.

If the injunction of Congress making the unanimous decision of the Board final is not applicable to the Secretary of Commerce and Labor, it is wholly idle.

There is no statutory provision authorizing any review or re-examination by any other tribunal or officer. In the absence of such provision no jurisdiction for such purpose may be assumed. No Federal or State Court could have challenged the right of the petitioners to remain in the United States.

No other official of the Government could have done so after the Board of Special Inquiry had acted and admitted the aliens, even if their action had not been unanimous but by a majority vote. Where their action is by a majority vote, appeal is the procedure provided by the statute, thus excluding all other procedure specifically if not for want of expressed statutory jurisdiction conferred.

Unanimous decision cut off review by the Secretary, so that no other tribunal or officer appears to come within the scope of the exclusion.

In fact, no suggestion is made of any other official or tribunal which could be aimed at by Congress in placing a finality upon the investigation of an alleged violation of the law in coming into the country *under contract of employment.*

The only existing jurisdiction for investigating *such violation* is found in the provision, Section 21, under which the Secretary of Commerce and Labor has claimed his authority in the present case. This provision existed prior to the change in the statute and must be considered as within the view of Congress. If it had had no other effect or scope than to indirectly provide for a review of the unanimous decision of the Board, it would doubtless have been repealed. But so long as it can have, and, in view of the many reported cases, evidently has had a wide scope of *original* action *in the absence* of action by the Board of Special Inquiry, Congress might naturally retain the provision for such purpose, and thus its legislation in excluding the action of the Secretary in one

class of cases is wholly consistent with authorizing such action under different circumstances.

And it none the less remains obvious and distinct that action by the Secretary was the only authorized action to which the injunction of Congress could relate.

The construction adopted by the Circuit Court of Appeals neither gives effect to the express exclusion of the Secretary when the decision is unanimous nor to the change in the statute making the decision final when favorable as well as when adverse to the alien.

VII.

The warrant and all proceedings had thereunder were and are wholly without authority of law.

That the charge of alleged violation for which the petitioners are detained is the same as that upon which they were unanimously admitted, is not only shown by the papers upon which the warrant was issued (Exhibit 3, pp. 13–29), but is conceded by the Government (see decision of Commissioner, Exhibit 6, p. 118).

Since the passage of the Act of March 3d, 1903, aliens coming to this country, who have been detained upon a specific charge, tried upon that charge by the Board of Special Inquiry, and admitted by the *unanimous* decision of that Board, are, under the provisions of Section 25 of that act, no longer subject for the same violation to arrest and deportation for the under the warrant proceedings authorized under the amendment of October 19, 1888; re-enacted Section 21 of the Act of March 3d, 1903.

The petitioners, Peter Pearson and Enoch Pearson, having been, upon their arrival in this country, detained upon a specific charge, examined by the Board of Special Inquiry, on a specific charge of violation of the statute in coming to this country to perform labor under contract or inducement, the Board having decided in their favor upon the charge unanimously admitting them, and the aliens having been discharged, the Secretary of the Department of Commerce and Labor was without jurisdiction over them *as respects such specific charge of violation*, and the issuance by him of the warrant and the subsequent proceedings were without authority of law.

VIII.

Warrant proceedings provided originally by the Act of October 19, 1888, and at present by Section 21 of the Act of March 3d, 1903, are not rendered useless by giving full effect to the plain language of Section 25.

Warrant proceedings would still apply in all cases where the aliens entered the country, either *clandestinely* or without challenge, detention and examination by the Board of Special Inquiry provided by Section 25.

In fact this is the very purpose for which the warrant proceedings were intended, and the very condition of circumstances in which warrant proceedings have been hitherto resorted to.

The attention of the Court is requested to Section 10 of the Act of March 3rd, 1903, as providing a scheme significantly different from that of Section 24, due to the difference in the nature of the violation. Where it is a question of disease or mental affection, the decision of the Board, based on a physician's certificate, if adverse to the alien, is final.

Doubtless such cases of violation would, under this language, remain subject to investigation by the Secretary under Section 21, in view of the decision in Li Sing vs. U. S., 180 U. S , 490.

By thus secluding a particular class of violations of the Act and applying a different restriction in Section 10, the intention of Congress in Section 25 to make the decision of the Board *final*, in cases *arising properly thereunder*, becomes *even more evident*.

Thus an ample and intelligent scheme has been, by the Act of March 3rd, 1903, provided by Congress for the two situations :

1st. Where the alien enters the country without complaint, detention and examination, and otherwise without the knowledge of the Department.

2nd. Where the Department has had notice, and the alien is challenged on entry, detained and examined under oath as to the alleged violation.

The last procedure is, under the detailed provisions of Sections 24 and 25, made ample and exhaustive, and is surrounded with special protection, full provision being made in the section (Section 24) for punishment of witnesses giving false testimony therein.

IX.

A construction of the statute which would permit the Secretary, under warrant proceedings, to review proceedings already had under Sections 24 and 25 of the Act of March 3d, 1903, resulting unanimously in favor of the admission of the aliens, would make the Act conflict with the recognized principles of justice, and, therefore, is not to be adopted.

(1) The Supreme Court has expressly clothed an alien immigrant with the protection of the principles contained in the Fifth Amendment in connection with the enforcement of the alien contract labor laws and warrant proceedings for deportation thereunder, and held that administrative officers may not when executing the provisions of a statute involving the liberty of persons, disregard the fundamental principles that inhere in "due process of law" as understood at the time of the adoption of the Constitution.

Japanese Immigant Case, 189 U. S., pp. 99, 100.

The principle that no person who has once been tried before a lawfully constituted tribunal and acquitted shall *non sua sponte* be again tried for the same offense is certainly one of the fundamental principles that inhere in "due process of law" as understood at the time of the adoption of the Constitution.

In the case cited the Supreme Court, in its opinion (p. 101), proceeded to mention another of these principles bearing on the case then at bar, but a

principle no more fundamental or inhering in "due process of law" than the principle we invoke in the present case

(2) Even if an alien immigrant may not be a person wholly within the scope of the Fifth Amendment, nevertheless, according to the rules which prevail in all civilized nations, in the absence of express language authorizing him, no administrative officer of the government may execute a provision of the statute when thereby he subjects the person proceeded against to a re-trial for the same offense upon which he has already been tried and acquitted by a tribunal constituted and authorized to hear and determine the same charge under and by virtue of the provisions of the same laws.

Japanese Immigrant Case, supra.

(3) As we have seen in the case of the Japanese Immigrant, *supra*, the Supreme Court has practically decided that aliens are to be clothed with the protection of the principles contained in the Fifth Amendment.

(*a*) That a person once tried and acquitted before a duly constituted tribunal, with full power to investigate the charge made, may not again be tried upon the same charge, is too well settled as one of the principles inhering in "due process of law" to require citation of authorities.

The question is squarely presented whether an alien, who has once been detained, examined and unanimously acquitted under the provisions of Sections 24 and 25 of the Act, may, nevertheless, be arrested and examined on the same charge whenever and as often as the Secretary shall see fit, and, be deported.

The contention of the Government involves obvious hardship and unfairness to the aliens, clear violation of the Constitution, absolute contradiction of the plain words of the statute, and is without support of the existence of any language in the statute or of any necessary destruction of the purposes for which warrant proceedings may be lawfully *and frequently are* resorted to.

Counsel for respondent below contended that to restrict the power of the Secretary as conferred by Section 21 by decision of the Board, as provided in Section 25, would necessarily destroy the power conferred by Section 21. *This is obviously wrong.* Many cases are constantly occurring where the immigrant enters the United States without even being challenged, and where the Board of Special Inquiry, as constituted under Section 25, has *never acquired jurisdiction* or *investigated* the alleged violation. In such cases the immigrant is still subject to deportment under Section 21.

In fact the two proceedings constitute a complete scheme; the warrant proceedings under Section 21 applying where there had never been any challenge or investigation; the proceedings under Section 25 by the Board of Special Inquiry applying where, as in the present case, challenge was made and the immigrant detained, investigated and admitted. So *that each proceeding applies in its proper field.*

The warrant proceedings authorized by the Statute and the procedure provided by Sections 24 and 25 of the Act may exist together harmoniously and be applied each in their appropriate field without adding the power of revision in the one proceeding over the other, and thus the Act may be construed harmoniously and effect given

to both provisions without violating the fundamental law of the land and the plain import of the language of the Act.

We have seen that where the decision of the Board of Special Inquiry is unanimous the Secretary was prevented from reviewing such decision.

It is senseless, therefore, to contend that Congress, while intending to prevent the Secretary from reviewing the decision of the Board under such circumstances, still gave him power practically to review it by instigating an examination himself.

In other words, that the Secretary might defeat the statutory proceeding and a decision under Section 25 by indirection, which he could not accomplish directly.

Such construction is contrary to all the well settled canons.

In *Lau Ow Bew* vs. *United States*, 144 U. S., 47, on page 59, the Court uses the following language:

"Nothing is better settled than that statutes should receive a sensible construction, such as will effectuate the legislative intention, and, if possible, so as to avoid an unjust or an absurd conclusion (*Church of the Holy Trinity* vs. *United States*, 143 U. S., 457; *Henderson* vs. *Mayor of New York*, 92 U. S., 259; *United States* vs. *Kirby*, 7 Wall, 482; *Oates* vs. *National Bank*, 100 U. S., 239)."

Statutes are to be construed so as to harmonize their provisions.

A harmonious construction is to be preferred which will avoid glaring abuse even under a statute termed "drastic" by the Circuit Court of Appeals (p. 131).

THE SECRETARY IN THIS CASE HAS LEGISLATED.

His construction renders nugatory the provisions of Section 25, which makes the decision of the Board of Special Inquiry final when unanimous in favor of the alien.

X.

The warrant proceedings disclosed no evidence of fraud on the part of the aliens in coming into the country or of any violation of the law.

While the courts have held that they would not consider the question of the *sufficiency* of the evidence upon which the immigration officials have decided or issued their warrant, nevertheless, as the law required some evidence, the courts have always reserved the right to hold as matter of law that there was no evidence on which the conclusion could be rested or action based.

Turner vs. *Williams*, 194 U. S., 279, 284.

There was no evidence of any fraud on the part of the aliens in coming into the country.

The proceedings instituted by the Secretary disclosed no new or additional evidence of any violation of the law.

The Circuit Court of Appeals found neither fraud nor additional evidence of any violation of the law.

Respondent's counsel in his brief before the Circuit Court of Appeals, and the Secretary in his decision (Exhibit 6, p. 169, fols. 506, 507) rested their case upon the claim that an illegal understanding existed because the aliens, on their first examination, stated that they were going to Wilkesbarre, but immediately upon being discharged went directly to Gouverneur. There was no evidence to support this claim.

Peter Pearson testified (p. 9):

"Q. Where are you going? A. Going to stay

in New York a day or two, and then we are going to a brother of mine in Wilkesbarre, Pa."

(p. 10):

"Q. Have you got a ticket to your destination? A. No."

(p. 10):

"Q. How long did you intend to stay in Wilkesbarre? A. I could not say; I couldn't give any definite period." * * *

(p. 12):

"Q. Know whether there is any lace establishment in Gouverneur, N. Y? A. Yes; because this Lesser told me that."

(p. 13):

"Q. You will take employment wherever you are able to receive it? A. Certainly."

Enoch Pearson testified generally (p. 14) that he was going to stay with his brother Peter; wherever Peter went, Enoch was going.

John Wakefield testified (p. 16):

"Q. You have no relatives or friends in this country? Except the Pearsons coming with you? A. No, sir.
Q. No address to go to except with them? A. No, sir."

On the second examination before the same Board Wakefield testified (p. 35):

"Q. Where did you propose to go yourself? A. I did not propose to go anywhere, only with my companions."

(p. 35):

"Q. You were *subject to change of mind* at any time? A. Yes."

Enoch Pearson testified (p. 56):

"Q. After you arrived and left here, where did you go? A. We went to New York and walked around and had something to eat, and then my brother and we went to Mr. Lesser's." * * *

Peter Pearson testified (pp. 62–63):

"Q. After you were permitted to land, what did you do then? A. It was late in the day, it was very cold, and we went and had something to eat and then of course I knew that Mr. Lesser was in New York.

Q. Had you known Mr. Lesser? A. Yes, sir.

Q. How many years had you known him? A. I could not say exactly. I saw him come to the firm where I worked, and I went there to see what he could do for me.

Q. Then you went to his place on that day? A. Yes, sir. * * *

Q. Who went with you? A. My brother and John Wakefield.

Q. Well, tell us as near as you can, what occurred when you saw Mr. Lesser? A. Well, when I saw Mr. Lesser he was surprised to see me here. I told him my business here, and I told him what I was after; asked him whether——

Q. What did he say? A. I asked him if he had a good situation. I told him that I had sold my business, of course, and that I had come to this country to get work.

Q. Yes? A. And that my brother was with me as well; whether he had anything; whether he could find me a situation as a corrector.

Q. What did he say? A. He told me that he could not give me a position as that, as he already had a man as corrector and reader, too.

Q. What did he say? A. He said that I could go up to Gouverneur, and there might be a chance of a situation as assistant manager. Of course, I never had been assistant manager before in my life. Of course, I have been among machines all of my life, and I felt myself fully qualified to take such a position, and naturally when he offered it to me I was very glad to take it.

Q. Go on and give as much of the conversation with Mr. Lesser as you can remember? A. I told him first of all that *my idea was to go to Wilkesbarre*, but he did not seem to want me to go there. I told him that I had my brother there, but he wanted us to go to Gouverneur, and if we would go there right away, he would undertake to pay all of the expenses, so as we could come back to New York if we did not get a situation" (*fols.* 258, 259, 260 and 261).

And again (p. 64):

"Q. Who paid your passage from here to Gouverneur? A. Mr. Lesser. I wanted to go to Wilkesbarre, and he said if we would go up with this young man that was going up there that night, he would undertake to pay our expenses.

Q. Pay your expenses up there whether you got a situation or not? A. Yes, sir."

In all this there was *no foundation for the suspicion* of the Secretary or of the government's counsel.

The evidence shows nothing more than intention to obtain work wherever possible, and change of destination from Wilkesbarre to Gouverneur *after* greater prospect of employment arising subsequent to admission.

Mere arbitrary "satisfaction" of the Secretary is not a compliance with the law, either in letter or in spirit. Under the rules promulgated with regard to the deportation proceeding, printed in the record at pages 6–7, no warrant for arrest and detention may be issued except based upon information, and, therefore, may not be arbitrarily issued.

Rule 5 (p. 7) refers specifically to the *evidence* upon which the Secretary acts in directing an alien's arrest.

SUSPICION MAY NOT TAKE THE PLACE OF EVIDENCE.

We respectfully submit that on the second examination of the petitioners the evidence was substantially the same as upon the first, and that there was nothing in addition upon which the Secretary relied except *unwarranted suspicion.*

Over and above all other considerations there stands concededly before the Court in the present case the effort on the part of the Secretary to *re-try* these aliens upon the *same charge* for which they had *already undergone full trial* and acquittal before a tribunal duly constituted by Congress *to hear and determine* the offense.

Such a proceeding is abhorrent to the principles of common law, and of all civilized communities, and cannot find support in statutory construction, except in a community where not only despotism prevails, but all sense of common fairness is absent.

XI.

We have not gone into the merits as to the charge made against the aliens solely because of the settled rule that the sufficiency of the evidence upon which the department decides is not reviewable by the Courts.

There was no violation of the law, and the evidence adduced, if passed upon by any tribunal, guided by the ordinary rules in weighing and considering testimony and evidence, and endowed with intelligence, such as is required by every civilized community from those to whom it entrusts such power and duty, would necessitate the free admission of all of the petitioners.

Merely because three of the resident weavers of Nottingham coming to the United States without previous promise or inducement or offer, on their arrival in the port of New York, are held for examination, and state that they are going to Wilkesbarre, and subsequently on being released, and while waiting they call upon in the same city an acquaintance of long standing who has, for many years, been in the habit of visiting Nottingham to buy goods there, and latterly to buy machinery for making such goods, are offered transportation to his factory and return, to enable them to apply for employment, if it can be given, and accept such offer instead of going to Wilkesbarre, where they had no definite offer, the Secretary has seen fit to find a violation ot the law.

We respectfully submit that such conclusion was based upon unjustified suspicion, and is without the support of any evidence.

The foregoing statement is made, because we wish it to be known that we invoked the aid of the Court in the discharge of the petitioners, not merely as a technical right, but as a relief from gross injustice and oppression, for which the writ is, and always has been, the approved remedy.

It is respectfully submitted that the judgment of the Circuit Court of Appeals should be reversed.

EUGENE TREADWELL,
Counsel for Petitioners.

(*Opinion.*)

Opinion, Circuit Court.

UNITED STATES CIRCUIT COURT.

In the Matter

of

The Application of PETER PEARSON, ENOCH PEARSON and JOHN WAKEFIELD for a Writ of *habeas corpus.*

LACOMBE, J.:

The old act made the decision of the Board of Special Inquiry final when adverse to the alien; the new act makes the decision final (except for appeal to Secretary of the Treasury), without any such qualification. The change is significant, and the unanimous decision of the Board in this case in favor of entry and against deportation should be taken as conclusive. The relators are discharged—order will be settled on notice so that the Commissioner may take an appeal if so advised.

May 12, 1904.

(*Opinion.*)

Opinion Circuit Court of Appeals.

UNITED STATES CIRCUIT COURT OF APPEALS,

FOR THE SECOND CIRCUIT.

No. 129—October Term, 1904.

PEARSON *et al.*,
Appellees,

vs.

WILLIAMS, Commissioner, etc.,
Appellant.

Decided February 24, 1905.
Appeal from the Circuit Court of the United States for the Southern District of New York.
Before WALLACE, TOWNSEND and COXE, Circuit Judges.

WALLACE, Circuit Judge:

This is an appeal by the Commissioner of Immigration at the port of New York from an order in *habeas corpus* discharging the appellees from his custody. The appellees were aliens in the custody of the commissioners under a warrant of the Secretary of Commerce and Labor. They arrived at the Port of New York about February 1, 1904, and were detained for examination before a Board of Special Inquiry to ascertain whether they had come to this country in violation of law. The board, after hearing evidence, decided in their favor, and they were by its unanimous decision allowed to land. Thereafter, and on or about March 21, 1904, the Secretary of Commerce and Labor issued a warrant under which they were held in custody by the appellant, pending an inquiry to ascertain whether

they were here in violation of law as alien laborers who had come here under a previous contract to perform service. All the proceedings were had pursuant to the act of Congress of March 3, 1903, entitled "An act to regulate the immigration of aliens into the United States." The pertinent provisions of this act are these: Section 21 provides that in case the Secretary of the Treasury shall be satisfied that an alien has been found in the United States in violation of the act, he may cause such alien, within a period of three years after landing, to be taken into custody and deported. Section 24 provides that any alien who may appear to the examining immigrant inspector at the port of arrival not to be clearly and beyond doubt entitled to land shall be detained for examination in relation thereto by a Board of Special Inquiry. Section 25 provides that such board shall consist of three persons to be selected by the Commissioner-General of Immigration from the immigrant inspectors in his service, with the approval of the Secretary of the Treasury, and shall have authority to determine whether an alien who has been duly held shall be allowed to land or deported * * * and that the decision of any two members of the board shall prevail and be final; but that either the alien or any dissenting member of said board may appeal * * * to the Secretary of the Treasury, whose decision shall be final.

The powers conferred by these provisions upon the Secretary of the Treasury were subsequently vested in the Secretary of Commerce and Labor (Act of February 14, 1903).

It is insisted for the appellees, and this contention prevailed in the court below, that the decision of the Board of Special Inquiry, no appeal from it

having been taken, was final. The examination before that Board was addressed to the inquiry whether the aliens had come to this country in violation of law as contract laborers; and it is urged that the decision of the board is *res adjudicata* upon that question, and conclusive of their right to enter and remain.

We are of the opinion that the decision of the board has no other effect than a determination that the alien shall be permitted to land; that its functions are confined to this initial inquiry; and that it is competent for the Secretary of Commerce and Labor at any subsequent time during the three years, upon becoming satisfied that the alien who has been allowed to enter is notwithstanding here in violation of law to exercise the power of deportation. The board is a subordinate tribunal whose powers extend merely to the decision of the particular inquiry committed to it, and any adjudication beyond this, even if it were to be regarded as a judicial decision, would be *coram non judice*.

The existing provisions of law are substitutes for provisions of the earlier acts regulating the immigration of aliens. By Section 8 of the act of March 3, 1891, it was committed to the inspection officers at every place of arrival to detain alien immigrants for examination. They were authorized to administer oaths and take and consider testimony touching the right of such aliens to enter the United States, and it was provided that all decisions made by them "or their assistants" touching the right of any alien to land when adverse to such right should be final unless an appeal should be taken to the Superintendent of Immigration, and that his action should be subject to review by the Secretary of the Treasury. By Section 11 of that

act it was provided that any alien who should come into the United States in violation of law might be returned as by law provided at any time within one year thereafter. By an act of October 19, 1888 (25 Stats. at L. 565), the Secretary of the Treasury had been authorized, in case he should be satisfied that an immigrant had been allowed to land contrary to the law prohibiting the immigration of laborers under previous contract, to cause the immigrant within the period of one year after landing or entering to be taken into custody and returned to the country whence he came. Speaking of these enactments in Japanese Immigrant Case (189 U. S., 99) the Supreme Court used this language: "Taking all its enactments together it is clear that Congress did not intend that the mere admission of an alien or his mere entering the country should place him at all times thereafter entirely beyond the control or authority of the executive officers of the government. On the contrary, if the Secretary of the Treasury became satisfied that the immigrant had been allowed to land contrary to the prohibition of that law, then he could at any time within a year after the landing cause the immigrant to be taken into custody and deported. The immigrant must be taken to have entered subject to the condition that he might be sent out of the country by order of the proper executive officers if within a year he was found to have been wrongfully admitted into it, or illegally entered the United States." By the present act the time within which this power could be exercised by the Secretary of the Treasury was extended to the period of three years after the landing or entering of the immigrant, and was subsequently transferred to the Secretary of Commerce and Labor. It is the plain purpose of

the drastic legislation embodied in the immigrant exclusion acts to provide every possible safeguard against the abuse by aliens of the prohibited classes of the privilege of coming to or remaining within this country. There is no repugnance between the power conferred upon the Board of Special Inquiry and that conferred upon the Secretary. The former is to be exercised summarily, and while the immigrant is under detention awaiting the result of the inquiry. The board has no authority to compel the attendance of witnesses, and must decide upon such evidence as is at hand or is readily accessible. Of necessity its decisions do not have the quality of even approximate infallibility. It is hardly conceivable that Congress should have intended that such a decision should be a final determination of the status of the alien. Manifestly Congress intended not only that the Secretary might review the question whether he should be allowed to enter upon an appeal from the decision, but also that at any time within three years the Secretary should have the power to reconsider the broader question of the right of the alien to remain, and upon reaching an adverse conclusion to order his deportation. This is not a power to be exercised arbitrarily, and deportation is to be ordered only after giving the alien an opportunity to be heard upon the questions involving his privilege. In the present case before deportation of the aliens had been ordered they had been heard; and it is to be presumed that the power of deportation would not have been exercised unless after a fair hearing the Secretary had become convinced that they were here in violation of law.

The order is reversed, with instructions to remand petitioners to custody of respondent.

Judge Coxe dissents.

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MAY 1 1905

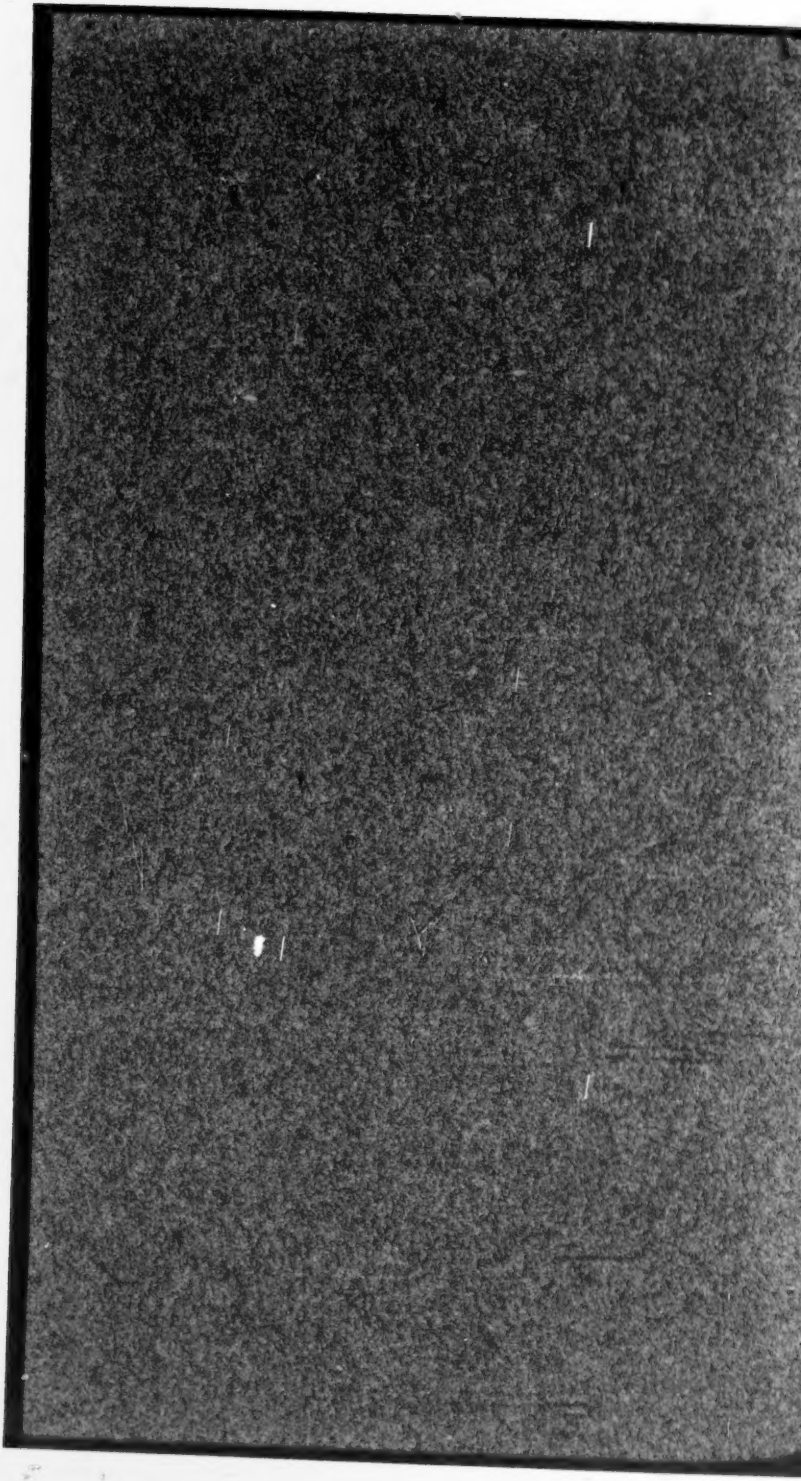
In the Supreme Court of the United States,

OCTOBER TERM, 1904.

PETER PEARSON AND ENOCH PEARSON, petitioners,
v.
WILLIAM WILLIAMS, COMMISSIONER OF Immigration at the Port of New York, respondent.

No. 623.

BRIEF IN OPPOSITION TO THE PETITION FOR CERTIORARI.



In the Supreme Court of the United States.

OCTOBER TERM, 1904.

PETER PEARSON AND ENOCH PEARSON, petitioners,
v.
WILLIAM WILLIAMS, COMMISSIONER OF Immigration at the port of New York, respondent.

No. ——.

BRIEF IN OPPOSITION TO THE PETITION FOR CERTIORARI.

THE FACTS.

The petitioners and one John Wakefield, subjects of Great Britain, came from England to the United States and applied for admission at the port of New York on February 1, 1904. Because of confidential information theretofore received the immigration officers held the applicants for examination by the Board of Special Inquiry. The testimony before the board was to the effect that these persons were lace workers and weavers from Nottingham, England. They denied having come to the United States under contract to labor or under promise of labor, although Peter Pearson admitted (Rec., p. 16) that he had been invited to come here by

one Joseph S. Lesser, whom he had known for perhaps twenty years (having frequently met him in England), Lesser being the owner of a factory for the manufacture of lace curtains, located at Gouverneur, St. Lawrence County, N. Y., with an office in the city of New York. They claimed they were going to Wilkesbarre, Pa., to visit a brother of the Pearsons, although as to one or two of them, the manifest of the vessel showed they were going to Gouverneur, N. Y.

While their testimony was contradictory in certain particulars, the board not feeling justified in excluding them admitted them, but kept them under surveillance to await developments. After being admitted they went direct to Gouverneur and were put to work in the factory of Lesser, where they were arrested while at work, about two months after their admission.

It appears from the record of the proceedings upon the hearing to deport them, that immediately after their admission they went direct to Lesser's office in New York, where, upon a promise by Lesser, as they say, to pay their expenses to his factory and back, if they were not satisfied, they went to Gouverneur to obtain work in his factory. Lesser admits this promise and also admits that he did, in fact, pay their expenses to his factory, and that he sent them in charge of one of his employees. His explanation is that he feared if they went to Wilkesbarre they would obtain employment in the lace factories at that place and would not return; and as he was very much in need of laborers, he persuaded them not to go there. The witnesses were examined separately, and their testi-

mony fails to agree in a number of particulars. Affidavits and statements of other persons were taken As a result the board found they were in this country unlawfully. The Secretary of Commerce and Labor approved that finding and ordered the deportation of petitioners as alien contract laborers. (Rec., pp. 151, 152, 169.)

As this court will not review the sufficiency of the testimony in cases of this character (*Chin Bak Kan* v. *U. S.*, 186 U. S., 193, 201; *The Japanese Immigrant Case*, 189 U. S., 86), a detailed statement of the evidence is deemed unnecessary. Counsel for the petitioners concede this proposition (brief, prop. 11, p. 39).

Upon the issuance of the order of deportation the petitioners sued out a writ of habeas corpus in the Circuit Court of the United States for the Southern District of New York. Upon hearing, the writ was granted and the petitioners were discharged. (Rec., p. 148.) The Government appealed from this order to the Circuit Court of Appeals, which court reversed the order of the Circuit Court and remanded the petitioners to the custody of the immigration officers for deportation. (Rec., p. 189.) Thereupon application was made for the writ herein prayed for.

THE LAW.

The sole question in the case is whether the Secretary of Commerce and Labor had authority to order the arrest and deportation of the petitioners, they having been admitted after a hearing and a finding in their favor by the Special Board of Inquiry.

The petitioners insist that the action of the Board of Special Inquiry in admitting them is final, and that no authority exists in any officer to cause their arrest and deportation. On the other hand the Government contends that that action is not final and can have no other effect than to permit the admission of an alien, and in no way estops the Secretary from exercising the power given him by sections 20 and 21 of the act of March 3, 1903 (32 Stat., 1213), to cause their arrest and deportation, if he finds, as matter of fact, that they are in the country in violation of law, as alien contract laborers.

The Circuit Court, in discharging the petitioners, based its conclusion wholly upon what it conceived to be a material change in the language of the act of March 3, 1903 (32 Stat., 1213), from the prior law of August 18, 1894 (28 Stat., 390). The provision of the act of 1894, under consideration, is as follows:

> In every case where an alien is excluded from admission into the United States under any law or treaty now existing or hereafter made, the decision of the appropriate immigration or customs officers, if adverse to the admission of such alien, shall be final, unless reversed on appeal to the Secretary of the Treasury [now the Secretary of Commerce and Labor]

Section 25 of the act of March 3, 1903, which, it is claimed, materially changes the act of 1894 above quoted, reads as follows:

> Such boards (of special inquiry) shall have authority to determine whether an alien who

> has been duly held *shall be allowed to land or be deported;* * * * and the decision of any two members of a board (which is to consist of three members) shall prevail and be final, but either the alien or any dissenting member of said board may appeal * * * to the Secretary of the Treasury, *whose decision shall then be final.*

It is to be observed that the question the board is empowered to decide is whether the alien *shall be allowed to land;* and it is with respect to this question that the decision of the Secretary is made final.

The provisions of earlier laws upon this point are the following:

Section 8 of the act of March 3, 1891 (26 Stat., 1085), after providing for the detention and examination of any alien, contained this provision:

> All decisions made by the inspection officers or their assistants *touching the right of any alien to land,* when adverse to such right, shall be final unless appeal be taken to the superintendent of immigration, whose action shall be subject to review by the Secretary of the Treasury.

And section 5 of the act of March 3, 1893 (27 Stat., 569), contained this provision:

> And no immigrant shall be *admitted* on special inquiry except after a favorable decision made by at least three of said inspectors; and any decision *to admit* shall be subject to appeal by any dissenting inspector to the superintendent of immigration, whose action shall be subject to review by the Secretary of the Treas-

ury, as provided in section 8 of said immigration act of March 3, 1891.

It will be noticed that in these acts of 1891 and 1893 there is no express provision that the decision of the Secretary shall be final; and it is contended that because the words "whose decision shall then be final" were added to the corresponding provision in the act of 1903, the effect is to forever cut off all right on the part of any officer of the United States to expel an alien who has secured admission by reason of his false statements to the immigration officers.

In each of the foregoing sections the question to be decided is whether the applicant shall be permitted to land. Upon that question the decision of the Secretary was just as final in the acts of 1891 and 1893 as in the act of 1903, even though the acts did not, in express terms, so declare. For no further appeal was provided to any other officer or to any court. As a matter of fact, attempts were made, especially in Chinese cases, to secure a retrial of such questions by means of the writ of habeas corpus; and the only purpose and effect of the change in the act of 1894 was to declare the intention of Congress that it had committed finally to the administrative officers the power to determine what aliens should and should not be admitted.

The power of the Secretary to arrest and to deport is granted in different sections of the statutes, and is a separate power. It is first given in the act of October 19, 1888 (25 Stat., 566), and authorizes the Secretary of the Treasury—

> In case he shall be satisfied that an immigrant has been allowed to land contrary to the prohibition of the law of February 26, 1885 (23 Stat., 332), as amended by the act of February 23, 1887 (24 Stat., 566), to cause such immigrant, within the period of one year after landing or entry, to be taken into custody and returned to the country from whence he came, etc.

It can hardly be questioned that under this provision the Secretary would have had the power to arrest and deport an alien who was here in violation of law, even though he had been admitted, after full examination, by the immigration officers. The above provision was in turn amended by section 11 of the act of March 3, 1891 (26 Stat., 1084), in these words:

> That any alien who shall come into the United States in violation of law may be returned as by law provided, at any time within one year thereafter; * * * and any alien who becomes a public charge within one year after his arrival in the United States, from causes existing prior to his landing therein, shall be deemed to have come in violation of law and shall be returned as aforesaid.

The above provision, authorizing the deportation of an alien who might become a public charge within a year after his arrival from causes existing prior thereto and declaring that his landing should be deemed to have been unlawful, shows that Congress intended by the use of the term "in violation of law" to include all who under the law were in fact members of the prohibited classes, no matter whether they secured

admission by means of false statements to the immigration officers or got into the country by evading them. Congress meant that certain classes of persons should not be permitted to come here; and if they did succeed in entering, no matter how, they might be deported.

We then come to the act of March 3, 1903 (32 Stat., 1213), the present law, the construction of which is involved in this case. By section 20 of the act it is provided:

> That any alien *who shall come into* the United States in violation of law, or who shall be found a public charge therein, from causes existing prior to landing, shall be deported, as hereinafter provided, to the country whence he came at any time within two years after arrival, etc.

And by section 21 it is further provided:

> That in case the Secretary of the Treasury shall be satisfied that an alien *has been found in* the United States in violation of this act he shall cause such alien, within the period of three years after landing or entry therein, to be taken into custody and returned to the country whence he came, as provided in section 20 of this act, etc.

The court will note the difference in the language of the two sections. In section 20 it is "that any alien who shall *come* into the United States in violation of law;" while in section 21 the language is "has been *found* in the United States in violation of this act," shall be deported. The first section reaches the

unlawful *coming*, the second the unlawful *being* here. That section 21 does not refer to *entrance into* but to *residence within* the United States is shown by the fact that section 20, reenacting former provisions of law, makes express provision for the deportation of those whose entry is unlawful. Section 21 corresponds, therefore, to section 13 of the Chinese exclusion law of September 13, 1888 (25 Stat., 479), which provides for the arrest of any *Chinese* person *found* unlawfully in the United States, and for a hearing before a justice, judge, or commissioner as to his right to reside within the United States. The method provided by section 21 is more expeditious than that provided in the Chinese exclusion law, in that the matter is committed wholly to the immigration officers; and of necessity it must be, because of the large number of aliens coming to our country.

This distinction between the question of admission and the right to continuous residence in the United States has been repeatedly recognized by the courts. Thus, in *United States* v. *Lau Sun Ho* (85 Fed., 422), a proceeding to deport a Chinese person who had been permitted to enter the United States by means of false and fraudulent representations that she was born here, the court, speaking with respect to the effect which should be given to the action of the collector in admitting such person, said, page 423:

> But the action of a collector of customs in permitting a Chinese alien to land in this country is not in any sense judicial. * * * The law does not give to such order or permission

> the effect of a judgment that such person is entitled to remain in the United States. The only effect of such permission is that the passenger claiming the right so to do is allowed to land, and if subsequently such alien is arrested, and charged with being unlawfully within the United States, the order of the collector of customs, under which such person was permitted to land, is not even prima facie evidence of his right to remain in the United States, and the court, in such a proceeding, inquires into the truth of the matter, unembarrassed by such order of the collector.

To the same effect is the case of *Chain Chio Tong* v. *United States* (133 Fed., 154), decided by the Circuit Court of Appeals for the Ninth Circuit. In that case the Chinaman, upon presenting a merchant's certificate, was permitted to enter. As a matter of fact, he was a laborer, and was permitted to land because of his false statements. The court held that such entry was unlawful and did not entitle him to remain in the United States, and affirmed the order of deportation, which had been made by the Commissioner and affirmed by the District Court.

This is the view taken by the Circuit Court of Appeals in this case. (Rec. p. 189.) The court held that the decision of the Board of Special Inquiry had no effect other than a determination that the petitioners should be permitted to land; and that it was competent for the Secretary, within the time fixed by these sections, if satisfied that the petitioners had been allowed to enter,

when in fact they ought to have been excluded, to arrest and deport them; and in support of its conclusion cites the *Japanese Immigrant Case* (189 U. S., 86, 89). It is true that in that case the entry was by evading the officers; but that fact in no way detracts from the force of the reasoning of the court as to the intention of Congress in passing these sections. The court, Mr. Justice Harlan delivering the opinion in that case, says, page 99:

> Taking all its enactments together, it is clear that Congress did not intend that the mere admission of an alien, or his mere entering the country, should place him at all times thereafter entirely beyond the control or authority of the executive officers of the Government. On the contrary, if the Secretary of the Treasury became satisfied that the immigrant had been allowed to land contrary to the prohibition of that law, then he could at any time within a year after the landing cause the immigrant to be taken into custody and deported. The immigrant must be taken to have entered subject to the condition that he might be sent out of the country by order of the proper executive officer if within a year he was found to have been *wrongfully admitted* into or had illegally entered the United States.

This language, we submit, is decisive of the case here. The evidence shows these people were wrongfully admitted, and may now rightfully be deported.

The Circuit Court of Appeals in its opinion says (Rec., p. 191):

> We are of the opinion that the decision of the board has no other effect than a determination that the alien shall be permitted to land; that its functions are confined to this initial inquiry; and that it is competent for the Secretary of Commerce and Labor at any subsequent time during the three years, upon being satisfied that the alien who has been allowed to enter is notwithstanding here in violation of law, to exercise the power of deportation. The board is a subordinate tribunal whose powers extend merely to the decision of the particular inquiry committed to it, and any adjudication beyond this, even if it were to be regarded as a judicial decision, would be *coram non judice*.

In view of these decisions, it seems clear that the purpose of the provision of section 25 was not to fix absolutely the right of an alien to remain in this country, but only to vest in the officers the power to determine whether, from the facts presented, the alien should be admitted; and that the sole purpose of making the decision of the appellate officer upon the question of admission final was to prevent the taking of appeals to the courts by an alien by means of the writ of habeas corpus. Of course Congress would not provide that a subordinate should take an appeal from the decision of the head of his Department.

Finally, it is claimed that the question tried under the deportation proceedings is the same question tried

upon the application of the petitioners for admission, and that to retry them upon the same charge after a decision in their favor "would be abhorrent to the principles of common law and of all civilized communities."

The answer to this claim is that the charge of being unlawfully in the United States was not tried when these persons presented themselves for admission; and if it were, there is no principle, moral or equitable, which can be invoked that will enable the petitioners to take advantage of their own wrong. They were alien contract laborers, members of a class prohibited by section 2 of the act of 1903 from coming to or remaining in the United States. They came, or are presumed to have come, with full knowledge that they were not entitled to enter; they secured admission because of the false statements made by them to the proper officers; they can not be heard to complain because the law has overtaken them and is about to expel them from the country. The proceeding is not a criminal one, nor in the nature of one; it is nothing more than a proceeding to expel persons who have entered the country unlawfully and who have no right to remain. The action of the immigration officers was in no sense a judicial proceeding. By section 23 of the act their duties are expressly declared to be "of an administrative character." With thousands of aliens daily entering our gates it would be impossible for the officers to investigate each case in order to determine finally that the person is entitled to

enter and to remain in the United States. For this reason Congress enacted the provision that any person found to be unlawfully here may be arrested and deported by the proper administrative officers. And we submit that the cases of the petitioners show the wisdom of this provision. Their acts subsequent to their admission furnished the evidence which satisfied the officers that their former statements were untrue and that they have no right to be or remain in the United States.

We submit that the judgment of the Circuit Court of Appeals is right and that the petition should be denied.

HENRY M. HOYT,
Solicitor-General.

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JAMES H. MCKENNEY,

No. 237.

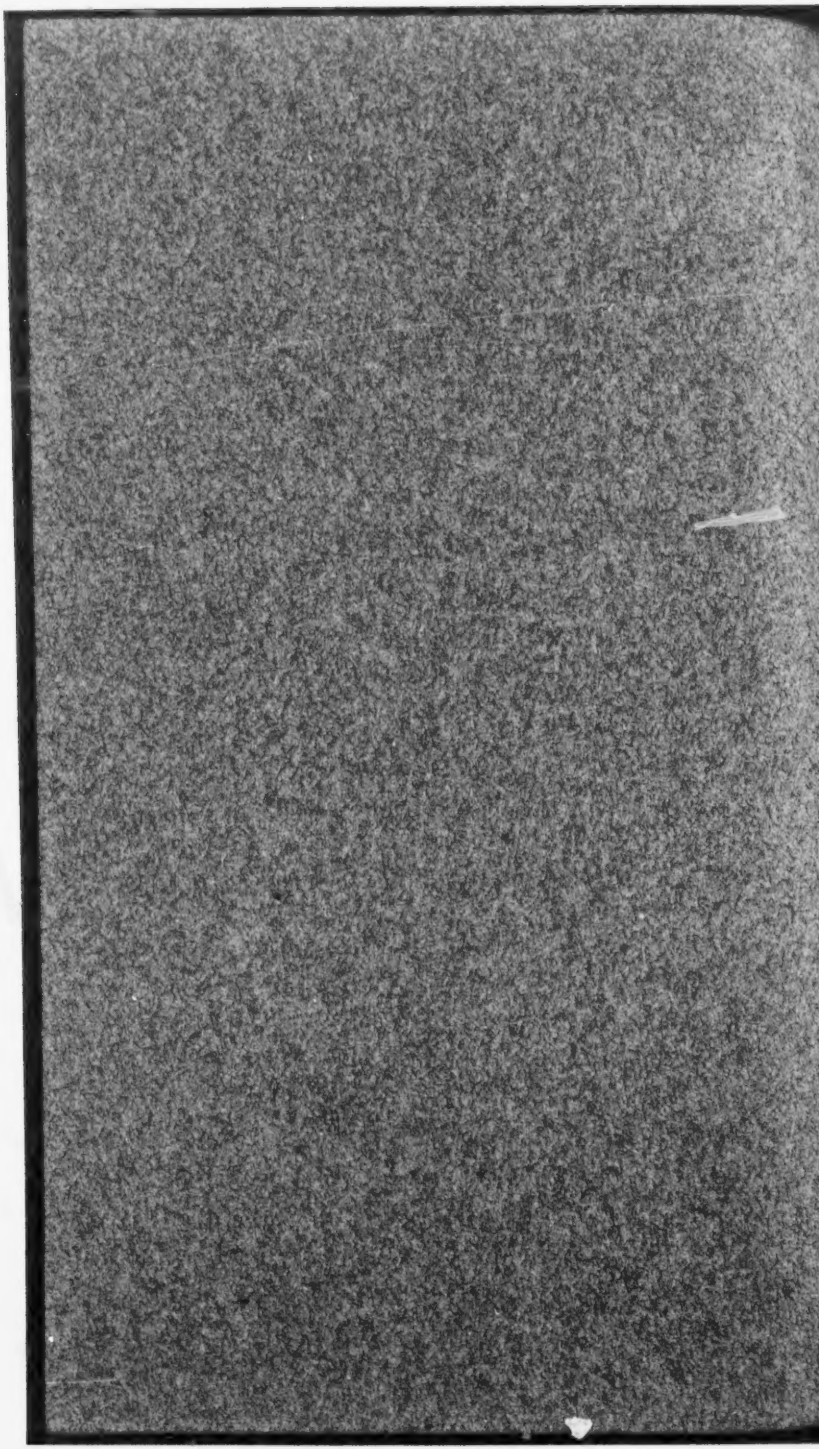
In the Supreme Court of the United States.

OCTOBER TERM, 1905.

PETER PEARSON AND ENOCH PEARSON, PETITIONERS,
v.
WILLIAM WILLIAMS, COMMISSIONER OF IMMIGRATION AT the port of New York, respondent.

ON WRIT OF CERTIORARI TO THE CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT.

BRIEF FOR THE UNITED STATES.



In the Supreme Court of the United States.

OCTOBER TERM, 1905.

PETER PEARSON AND ENOCH PEARSON, petitioners,
v.
WILLIAM WILLIAMS, COMMISSIONER OF IMMIGRATION at the port of New York, respondent.
No. 237.

ON WRIT OF CERTIORARI TO THE CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT.

BRIEF FOR THE UNITED STATES.

STATEMENT OF FACTS.

Petitioners and one John Wakefield, subjects of Great Britain, came from England and applied for admission at the port of New York on February 1, 1904. Because of information theretofore received, the immigration officers held the applicants for examination by the Board of Special Inquiry. The testimony before the board was to the effect that these persons were lace workers and weavers from Nottingham, England. They denied having come to the United

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States under contract to or promise of labor, although Peter Pearson admitted (Rec., p. 16) that he had been invited to come here by one Joseph S. Lesser, whom he had known for perhaps twenty years, having frequently met him in England. Lesser was the owner of a factory for the manufacture of lace curtains, located at Gouverneur, St. Lawrence County, N. Y., with an office in the city of New York. They claimed they were going directly to Wilkes-Barre, Pa., to visit a brother of the Pearsons, although as to some of them, the manifest of the vessel showed they were going to Gouverneur, N. Y.

While their testimony was contradictory in certain particulars the Board permitted them to land, but kept them under surveillance to await developments. After landing they went direct to Gouverneur and were put to work in the factory of Lesser, where they were arrested while at work, about two months after their landing, upon a warrant issued by the Secretary of Commerce and Labor ordering that they be brought before the Board of Special Inquiry to show cause why they should not be deported as having been found in the United States in violation of law. (Sec. 21, act of March 3, 1903.) (Rec., p. 13.)

It appears from the record of the proceedings upon the hearing to deport them, before the Board of Special Inquiry, that immediately after their being permitted to land they went direct to Lesser's office in New York, and upon a promise by Lesser, as they say, to pay their expenses to his factory and back, if they were

not satisfied, they then went to Gouverneur to work in his factory. Lesser admits this promise and also admits that he did, in fact, pay their expenses to his factory, and that he sent them in charge of one of his employees. His explanation is that he feared if they went to Wilkes-Barre they would obtain employment in the lace factories at that place and would not return; and as he was very much in need of laborers, he persuaded them not to go there. The witnesses were examined separately, and their testimony fails to agree in a number of important particulars. Affidavits and statements of other persons were taken. As a result the board found they were in this country unlawfully. The Secretary of Commerce and Labor approved that finding and ordered the deportation of petitioners as alien contract laborers. Clearly there was sufficient evidence before the Secretary upon which to predicate his decision. (Rec., pp. 151, 152, 169.)

As this court will not review the sufficiency of the testimony in cases of this character (*Chin Bak Kan* v. *United States*, 186 U. S., 193, 201; *The Japanese Immigrant case*, 189 U. S., 86; *United States* v. *Arteago*, 68 Fed., 883), a detailed statement of the evidence is deemed unnecessary. Counsel for the petitioners concede this proposition. (Brief on petition prop. 11, p. 39.)

Upon the issuance of the order of deportation petitioners sued out a writ of habeas corpus in the Circuit Court of the United States for the Southern District of New York. Upon hearing, the writ was granted and petitioners were discharged. (Rec., p. 148.) The Gov-

ernment appealed from this order to the Circuit Court of Appeals, which court reversed the order of the Circuit Court and remanded petitioners to the custody of the immigration officers for deportation. (Rec., p. 189.) Thereupon petition for certiorari was granted by the Supreme Court.

ARGUMENT.

The sole question in the case is whether the Secretary of Commerce and Labor had authority to order the arrest and deportation of the petitioners in accordance with the provisions of section 21 of the act of March 3, 1903, after hearing and finding by the Board of Special Inquiry according to section 25 of the act that they be allowed to land. (32 Stat., 1213.)

Petitioners insist that the action of the Board of Special Inquiry in allowing aliens to land is final for all time as to their right to remain as well as to land, and that no authority exists in any officer to cause their arrest and deportation. On the other hand, the Government contends that such action can have no other effect than to permit the landing of an alien, and in no way estops the Secretary from exercising the power given him by section 21 of the act of March 3, 1903 (*supra*), to cause their arrest and deportation if he finds that they have, by falsehood, deceived the Board of Special Inquiry and consequently been permitted to land, contrary to the prohibition of law, as alien contract laborers.

I.

The act of October 19, 1888, authorized the Secretary of the Treasury to deport alien contract laborers allowed to land contrary to law. Fraudulent and mistaken entries and not clandestine entries caused its enactment.

The acts of February 26, 1885 (23 Stat., 332), and February 23, 1887 (24 Stat., 414), prohibited the landing of contract laborers in this country. The ingenuity of importers of contract labor successfully evaded those laws by coaching the laborers, and so it became necessary to authorize the deportation of laborers who had secured landing by such means. The deficiency bill approved October 19, 1888, contained an amendment to the contract-labor laws, authorizing "the Secretary of the Treasury, in case that he shall be satisfied that an immigrant has been allowed to land contrary to the prohibition of that law (of 1887) to cause such immigrant, within the period of one year after landing or entry, to be taken into custody and returned to the country from whence he came." (25 Stat., 566.)

It is too apparent for argument that this law authorized the Secretary of the Treasury to deport contract laborers who by *fraud* or *mistake* had been allowed to land by the immigration officers, and that such fraudulent or mistaken entries and not clandestine entries were the cause of its enactment. Indeed, the language of the act, viz, "*has been allowed to land* contrary to the prohibition of that law," specifically applies to those cases where a landing has been effected through fraud or mistake and not to cases of clandestine entry.

If any confirmation of this is needed, we find it in the report of the Select Committee on Immigration and Naturalization made February 14, 1891, after exhaustive hearings. (H. Report 3807, 51st Cong., 2d sess.) The committee says:

> The alien contract law is intended to prevent the landing of any alien who comes under any contract, express or implied, to do labor in this country. But few persons have been returned under this law. It has been charged that a failure to discover and return alien laborers was due to the unfriendly administration of the law, but your committee found that a large share of the inspectors were men representing labor organizations and had been given charge of this work because of their fraternal interest in it and had been specially recommended therefor. Five of these agents were before the committee, and all stated that it was next to impossible to detect a contract laborer, as they come "coached." The agent of the contractor usually accompanies the men on the vessel, and by the day of landing has them so drilled in answers to be given the labor inspectors that they pass their examination with little difficulty. Many of these violations can be detected after the men enter on their work in this country. It is recommended that the period during which an alien can be returned who has landed in violation of this law shall be extended to five years.

II.

The scope of the law of 1888 was not limited before passage of the act of 1903.

Section 11 of the act of March 3, 1891 (26 Stat., 1084), provides:

> That any alien who shall come into the United States in violation of law may be returned as by law provided, at any time within one year thereafter; * * * any alien who becomes a public charge within one year after his arrival in the United States, from causes existing prior to his landing therein, shall be deemed to have come in violation of law and shall be returned as aforesaid.

This provision authorizing the deportation of an alien who might become a public charge within a year after his arrival from causes existing prior thereto, and declaring that his landing should be deemed to have been unlawful, shows that Congress intended by the use of the term "in violation of law," to include all who under the law were in fact members of the prohibited classes, no matter whether they secured admission by means of false statements to the immigration officers, or got into the country by evading them. Congress meant that certain classes of persons should not be permitted to come here, and if they did succeed in entering, no matter how, they might be deported.

In the *Japanese Immigrant case* (189 U. S., 99) the court said:

> The Secretary of the Treasury, under the above act of October 19, 1888, chapter 1210,

was authorized, within one year after an alien of the excluded class entered the country, to cause him to be taken into custody and returned to the country whence he came. Substantially the same power was conferred by the act of March 3, 1891, chapter 551, by the eleventh section of which it is provided that the alien immigrant may be sent out of the country, "as provided by law," at any time within the year after his illegally coming into the United States. Taking all its enactments together, it is clear that Congress did not intend that the mere admission of an alien, or his mere entering the country, should place him at all times thereafter entirely beyond the control or authority of the executive officers of the Government. On the contrary, if the Secretary of the Treasury became satisfied that the immigrant had been allowed to land contrary to the prohibition of that law, then he could at any time within a year after the landing cause the immigrant to be taken into custody and deported. The immigrant must be taken to have entered subject to the condition that he might be sent out of the country by order of the proper executive officer if within a year he was found to have been *wrongfully admitted* into or had *illegally entered* the United States.

III.

Section 21 of the act of March 3, 1903, reenacts the law of 1888, extending, not limiting, the power of the Secretary to deport.

Executive officers construed the act of 1888 as authorizing deportation of all alien-contract laborers

entering the country through the regular channels of inspection, and always enforced the law according to that construction.

Proceedings in this case were based on section 21 of the law of 1903. We are not directly concerned with section 11 of the law of 1891 as reenacted in section 20 of the law of 1903, but its history is instructive in determining the scope of the law of 1888 as reenacted in section 21 of the law of 1903.

Section 11 of the act of 1891, and the act of 1888 were reenacted in substantially the same language in sections 20 and 21 of the act of March 3, 1903 (32 Stat., 1213), which read as follows:

> SEC. 20. That any alien who shall come into the United States in violation of law, or who shall be found a public charge therein, from causes existing prior to landing, shall be deported, as hereinafter provided, to the country from whence he came at any time within two years after arrival, etc.
>
> SEC. 21. That in case the Secretary of the Treasury shall be satisfied that an alien has been found in the United States in violation of this act, he shall cause such alien, within the period of three years after landing or entry therein, to be taken into custody and returned to the country whence he came, as provided in section twenty of this act, etc.

The reports of committees of the Senate and House are appropriate and useful means "of determining the scope of statutes passed on the strength of such reports." (*Binns* v. *United States*, 195, U. S., 486, 495.)

The reports of the Senate and House committees having this act under consideration clearly establish that by these enactments Congress intended to continue in force the previous laws, adding provisions to make them more effective, and extending, not limiting, the power to deport conferred upon the Secretary by the previous laws.

> Section 20 is, in part, a reenactment of section 11 of the act of March 3, 1891. It is, however, a new departure, in so far as it extends the time within which an alien who has become a public charge may be deported from one year to five years after his landing in the United States. * * *
>
> *Section 21 reenacts the provisions of the act of October 19, 1888*, giving the Secretary of the Treasury power to arrest and deport aliens found unlawfully in the United States, and requires their return by the transportation lines to the country whence they came, or, if that can not be done, as in the case of tramp steamers, at the expense of the immigration fund. It also extends the time within which such arrest for deportation may be made to five years, in agreement with the next preceding section. * * * (H. Report 982, 57th Cong., 1st sess.)

With the exception of certain features, which will be referred to further on in this report, this measure is a reenactment of existing laws upon the subject of immigration.

* * * * *

The new legislation presented in the act is either amendatory of that in force or additional

thereto, and the facts and reasoning therefrom in support of it in each instance will be given herein. *The absence of comment on any portion of the measure indicates that such portion is, either in terms or in substance, existing law.*

* * * * *

The period of time within which an alien who has become a public charge, from causes existing prior to landing, may be deported is now one year. Section 21 (20 of the law) extends this period to three years, dividing the cost of deportation during the two additional years between the immigrant fund and the municipality or corporation seeking relief from the burden of such public charge. It also requires the steamship company which brought any such alien to pay one-half of the cost of the inland transportation of such alien to the seaport of return during the year in which it is charged with the cost of his deportation.

Section 22 (21 of the law) imposes a fine upon any steamship company which neglects or refuses to execute the Secretary's warrant for the deportation of aliens found unlawfully in the United States. (S. Report 2119, 57th Cong., 1st sess.)

The House committee states affirmatively, and the Senate committee just as clearly in a negative way, an intention to reenact without reservation the law of 1888 in section 21 of the law of 1903.

The words "has been found in the United States in violation of this act," are broad enough to include all

classes described by the act of 1888, viz, where "an immigrant has been allowed to land contrary to the prohibition of that law," and according to the reports were intended to include them.

IV.

Section 25 of the act of 1903 reenacts section 5 of the act of 1893, not section 8 of the act of 1894 nor the law of 1894. Hence alleged omission of the words "if adverse to the admission of such alien" from section 25 is not significant.

Petitioner contends that section 25 of the act of 1903 by implication makes a reservation from the power conferred upon the Secretary of the Treasury to deport immigrants found unlawfully in the United States, by taking away the right to deport such immigrants allowed to land by the Board of Special Inquiry, which right was expressly granted by the law of 1888, and as has been shown by the reenactment of that law in section 21 of the act of 1903. This contention is based on the alleged omission from section 25 of the act of 1903 of the words "if adverse to the admission of such alien" contained in section 8 of the act of March 3, 1891 (26 Stat., 1084), and the act of August 18, 1894 (28 Stat., 390). These laws read:

> All decisions made by the inspection officers or their assistants touching the right of any alien to land, when adverse to such rights, shall be final unless appeal be taken to the superintendent of immigration, whose action shall be subject to review by the Secretary of the Treasury. (Act of March 3, 1891.)

In every case where an alien is excluded from admission into the United States, under any law or treaty now existing or hereafter made, the decision of the appropriate immigration or customs officers, if adverse to the admission of such alien, shall be final unless reversed on appeal to the Secretary of the Treasury. (Act of August 18, 1894.)

Every alien who may not appear to the examining immigrant inspector at the port of arrival to be clearly and beyond a doubt entitled to land shall be detained for examination in relation thereto by a board of inquiry. * * *

Such boards (of special inquiry) shall have authority to determine whether an alien who has been duly held *shall be allowed to land or be deported.* * * * The decision of any two members of a board shall prevail and be final, but either the alien or any dissenting member of said board may appeal, through the commissioner of immigration at the port of arrival, and the Commissioner General of Immigration, to the Secretary of the Treasury (Secretary of Commerce and Labor), whose decision shall then be final; and the taking of such appeal shall operate to stay any action in regard to the final disposal of the alien whose case is so appealed until the receipt by the commissioner of immigration at the port of arrival of such decision. (Sections 24 and 25 of the act of March 3, 1903.)

A Board of Special Inquiry was first created by the act of 1893 (27 Stat., 569). Section 5 of that act provides—

> That it shall be the duty of every inspector of arriving alien immigrants to detain for a special inquiry, under section one of the immigration act of March third, eighteen hundred and ninety-one, every person who may not appear to him to be clearly and beyond doubt entitled to admission, and all special inquiries shall be conducted by not less than four officials acting as inspectors, to be designated in writing by the Secretary of the Treasury or the superintendent of immigration, for conducting special inquiries; and no immigrant shall be admitted upon special inquiry except after a favorable decision made by at least three of said inspectors; and any decision to admit shall be subject to appeal by any dissenting inspector to the superintendent of immigration, whose action shall be subject to review by the Secretary of the Treasury, as provided in section eight of said immigration act of March third, eighteen hundred and ninety-one.

The decision of the board in cases not appealed, and of the Secretary in appealed cases, was final under this section the same as if they had been declared final, as in section 25 of the act of 1903. (The *Japanese Immigrant case*, 189 U. S., 86, 97, 98, and cases there cited; *United States* v. *Arteago*, 68 Fed. Rep., 883; *In re Howard*, 63 Fed. Rep., 263.)

The provisions in the latter section expressly making the decisions of the board and Secretary final, are

merely declaratory of judicial interpretation, and their addition is without significance. The language of the court in the Japanese Immigrant case, above quoted, is therefore determinative of the question here presented.

It was by virtue of section 5 of the act of 1893, and not the acts of 1891 and 1894 that the decision of the Board of Special Inquiry was final, except upon appeal to the Secretary of the Treasury, prior to the enactment of the law of 1903. It was this section and not the acts of 1891 and 1894 that the committees and Congress had in mind when they framed and passed section 25 of the law of 1903. The language and substance of sections 5 of the act of 1893 and 25 of the act of 1903, clearly show this, and the report of the House committee places the matter beyond doubt. It reads "Section 25 amends section 5 of the act of March 3, 1893, by requiring," etc. Congress was not here amending the acts of 1891 and 1894, as no reference is made to them by the committees.

V.

Repeals by implication are supported only when statutes are absolutely irreconcilable. Finality of Board's decision upon right to land and right of Secretary to deport excluded classes, allowed by Board to land through fraud or mistake, are consistent.

Petitioners' contention if supported amounts to a repeal by implication of the law of 1888, as the purpose of the enactment of the former, viz, to confer upon the Secretary power to deport contract laborers who deceive the immigration officers, would be defeated.

"Repeals by implication are not favored, and when two statutes cover in whole or in part the same matter and are not absolutely irreconcilable, effect should be given, if possible, to both of them." (*United States* v. *Greathouse*, 166 U. S., 60.)

If this familiar canon of construction is followed in the present case the Government's contention must be upheld. It is entirely consistent for the decision of the Board of Special Inquiry upon an immigrant's *right to land* to be final unless appealed from, and that the Secretary of the Treasury have the *right to deport* if he finds an alien has by mistake or fraud obtained favorable decision by the Board.

A clear distinction between authority to *exclude* aliens when entering and to *deport* aliens found unlawfully in the United States is recognized in the Chinese exclusion laws.

Section 13 of the act of September 13, 1888 (25 Stat., 479), provides for the arrest of any Chinese person found unlawfully in the United States and for a hearing before a justice, judge, or commissioner as to his right to reside within the United States.

In *United States* v. *Lau Sun Ho* (85 Fed., 422), a proceeding to deport a Chinese person who had been permitted to enter the United States by means of false and fraudulent representations that she was born here, the court, speaking with respect to the effect which should be given to the action of the collector in admitting such person, said (p. 423):

> But the action of the collector of customs in permitting a Chinese alien to land in this coun-

> try is not in any sense judicial. * * * The law does not give to such order or permission the effect of a judgment that such person is entitled to remain in the United States. The only effect of such permission is that the passenger claiming the right so to do is allowed to land, and if subsequently such alien is arrested and charged with being unlawfully within the United States, the order of the collector of customs under which such person was permitted to land is not even prima facie evidence of his right to remain in the United States, and the court, in such a proceeding, inquires into the truth of the matter, unembarrassed by such order of the collector.

To the same effect is the case of *Chain Chio Tong* v. *United States* (133 Fed., 154), decided by the Circuit Court of Appeals for the Ninth Circuit. In that case the Chinaman, in presenting a merchant's certificate, was permitted to enter. As a matter of fact he was a laborer, and was permitted to land because of his false statements. The court held that such entry was unlawful and did not entitle him to remain in the United States, and affirmed the order of deportation which had been made by the Commissioner and affirmed by the District Court.

This court has also recognized this distinction in the above quotation taken from the Japanese immigrant case.

In its report the House committee says, "The jurisdiction of the board is strictly defined, to avoid an unnecessary expenditure of time on other questions

than those for whose determination such boards are required."

Petitioners contend this would make the decision of the board final for only five minutes. In the first place, the board consists of immigration officers working under the supervision and direction of the Secretary of Commerce and Labor, and it is to be presumed that all will perform their duties properly and harmoniously. Secondly, the procedure for deportation under section 21, adopted by the Secretary, eliminates all possibility of conflicting action. Upon the arrest of an alien for deportation, the Secretary orders him to be taken before the Board of Special Inquiry to show cause why he should not be deported, and that board makes a finding and recommendation upon which the Secretary acts.

VI.

Senate and House committee reports deny an intention to withdraw from the Secretary power to deport aliens of excluded classes allowed by Board to land.

In no place in its exhaustive report does the House committee indicate an intention to limit the power of the Secretary to deport aliens found unlawfully in the United States so that he can not deport aliens once admitted by the Board of Special Inquiry. If such had been the intention it surely would have been mentioned in such an exhaustive report. The Senate committee in its report said "the absence of comment on any portion of the measure indicates that such portion is either in terms or substance existing law." No

reference is made by it in connection with section 25 or any other section to any limitation upon the power of the Secretary to deport under the law of 1888, as reenacted in section 21, act of 1903.

VII.

An implied limitation on power of Secretary to deport is inconsistent with general purpose of Congress in passing law of 1903 to make contract-labor laws more stringent.

If any further confirmation is needed of the intention of Congress to extend and not curtail the power of the Secretary to deport under the law of 1888, by the law of 1903, we find it in the general purpose manifested throughout the law to make the prohibition against the importation of contract labor more stringent. Section 4 extends the prohibition against contract labor importations to *skilled* laborers, and to "any offer, solicitation, promise, or agreement, parole or special, expressed or implied," instead of limiting it as in previous laws to a strict legal contract. Section 19 adds to section 10 of the act of 1891 by providing that an alien rejected as a contract laborer may be detained as a witness against the party inducing his unlawful immigration. Section 21 extends the time when the Secretary may deport from one to three years. In short, the whole purpose and spirit of the law is to further restrict the immigration of contract laborers and all other undesirable classes. All immigrants about whom inspectors entertain a doubt go before the Board of Special Inquiry,

and a limitation upon the power of the Secretary to deport, such as petitioner here contends for, which will deprive the Secretary of the right to expel from the country beggars, criminals, polygamists, anarchists, prostitutes, and contract laborers who have once passed the board, is contrary to the purpose of the law, and entirely unwarranted as a deduction, directly or indirectly, from any language contained in the law and reports of the committees. The object of the provisions for the Board of Special Inquiry was added protection to the United States, and not to give aliens protection against expulsion by the Secretary.

Referring to section 24, the House committee says:

> It also repeats existing law in requiring the examination officer to detain for special inquiry all aliens as to whose right to admission he entertains any doubt. A new provision is included in this section, giving the right to any immigration officer to challenge the conclusion of any examining officer that an alien is entitled to land.
>
> This does not do any injustice to such an alien, since it merely brings his case before a board of special inquiry for adjudication, while it protects the American people from the danger of admission of aliens not entitled thereto either from the possibly disinterested motives of an officer or as a result of his lack of sound judgment.

It seems that the purpose of the provision of section 25 was not to fix absolutely the right of an alien to remain in this country, but only to vest in the officers

the power to determine whether, from the facts presented, the alien should be allowed to land at all; and the sole purpose of making the decision of the officers upon the question of admission final, was to prevent the taking of appeals to the courts by an alien by means of the writ of habeas corpus.

VIII.

Congress has power to authorize the Secretary to deport aliens allowed by Board to land.

The unrestricted right of Congress to give the Secretary of the Treasury power to deport an alien whom he is satisfied is in the country unlawfully, after the alien has been allowed to land by the Board of Special Inquiry, can not be doubted. That such right exists is decided in *Fong Yue Ting* v. *United States* (149 U. S., 698). The following quotations from that decision are apposite (pp. 705, 707 and 713):

> It is an accepted maxim of international law that every sovereign nation has the power, as inherent in sovereignty, and essential to preservation, to forbid the entrance of foreigners within its dominions, or to admit them only in such cases and upon such conditions as it may see fit to prescribe. * * *
>
> The right of a nation to expel or deport foreigners who have not been naturalized or taken any steps toward becoming citizens of the country rests upon the same grounds and is as absolute and unqualified as the right to prohibit and prevent their entrance into the country. * * *

The power to exclude aliens and the power to expel them rest upon one foundation, are derived from one source, are supported by the same reasons, and are in truth but parts of one and the same power.

IX.

Deportation by Secretary of excluded classes allowed by Board to land works no injustice.

Petitioners claim that the question tried under the deportation proceedings is the same question tried upon the application of the petitioners for admission, and that to retry them upon the same charge after a decision in their favor "would be abhorrent to the principles of common law and of all civilized communities."

The answer to this claim is that the charge of being unlawfully in the United States was not tried when these persons presented themselves for admission, and if it were, there is no principle, moral or equitable, which can be invoked that will enable petitioners to take advantage of their own wrong. They were alien contract laborers, members of a class prohibited by section 2 of the act of 1903 from coming to or remaining in the United States. They came, or are presumed to have come, with full knowledge that they were not entitled to enter. They secured admission because of the false statements made by them to the proper officers. They can not be heard to complain because the law has overtaken them and is about to expel them from the country. The proceeding is not a criminal

one; it is nothing more than a proceeding to expel persons who have entered the country unlawfully and who have no right to remain. The action of the immigration officers was in no sense a judicial proceeding. By section 23 of the act their duties were expressly declared to be "of an administrative character." With thousands of aliens daily entering our gates it would be impossible for the officers to investigate each case in order to determine finally that the person is entitled to enter and to remain in the United States. For this reason Congress enacted the provision that any person found to be unlawfully here may be arrested and deported by the proper administrative officers. And we submit that the cases of the petitioners show the wisdom of this provision. Their acts subsequent to their admission furnished the evidence which satisfied the officers that their former statements were untrue and that they have no right to be or remain in the United States.

We submit that the judgment of the Circuit Court of Appeals is right, and should be affirmed.

CHARLES H. ROBB,
Assistant Attorney-General.

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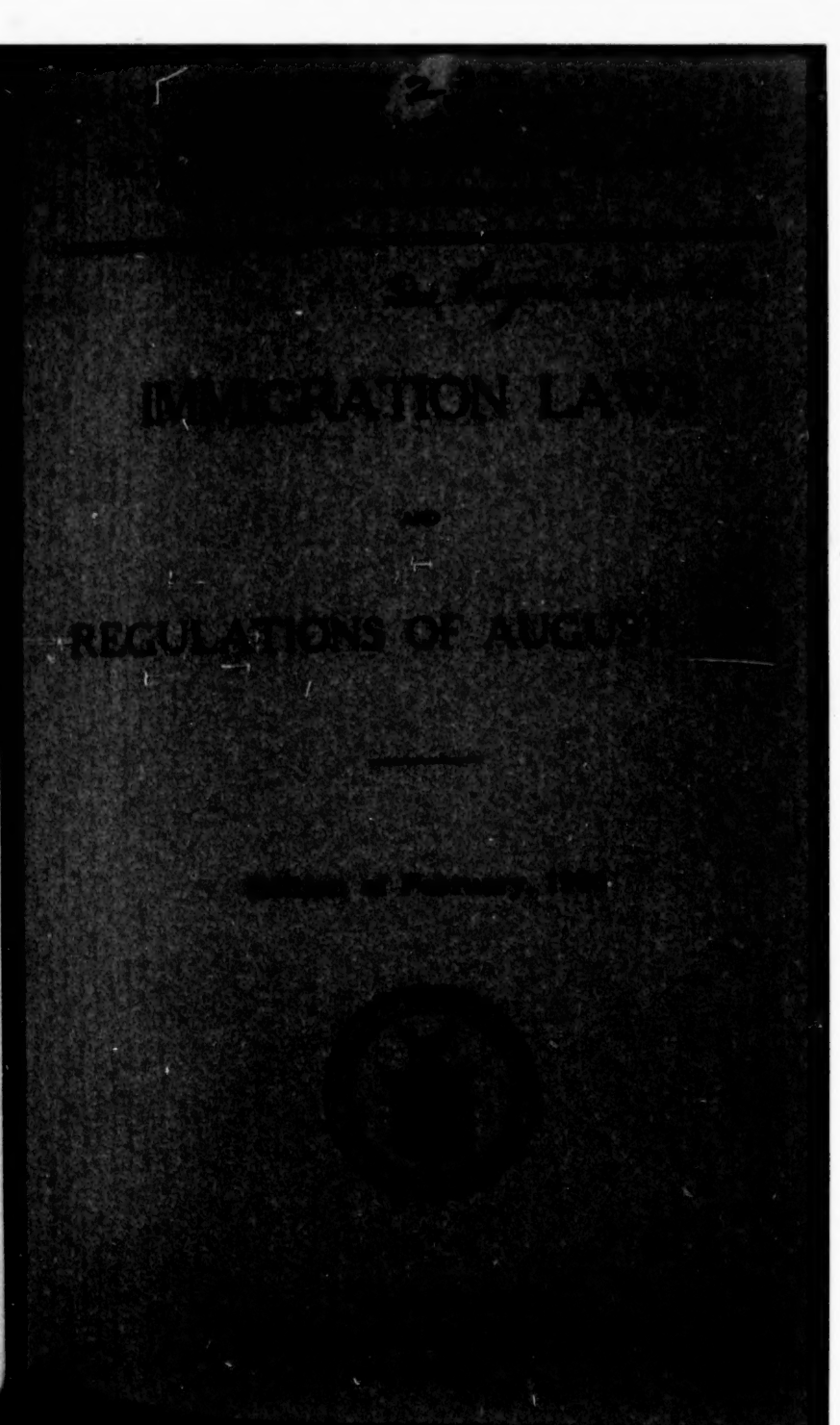

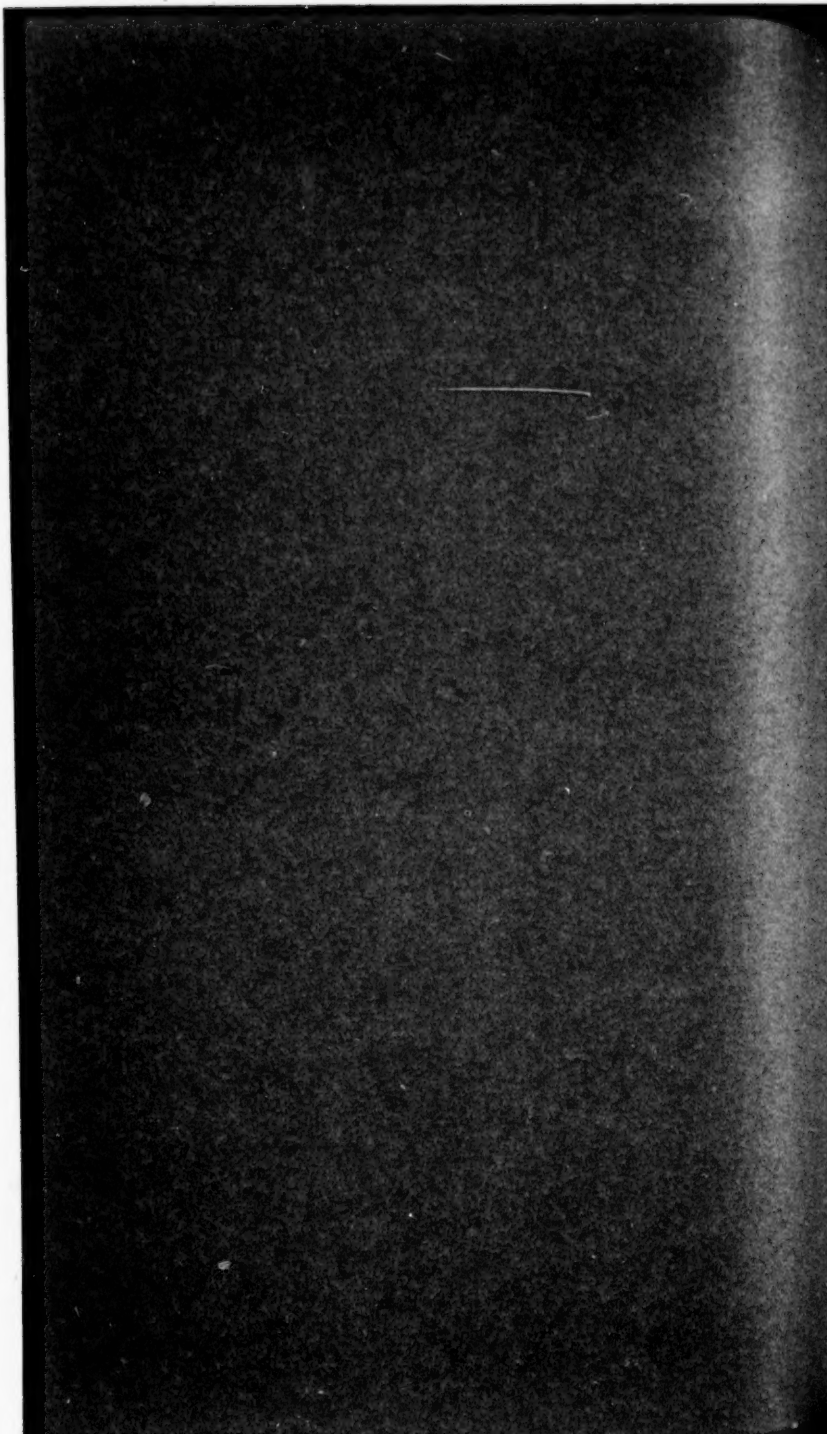

DEPARTMENT OF COMMERCE AND LABOR

BUREAU OF IMMIGRATION

IMMIGRATION LAWS

AND

REGULATIONS OF AUGUST, 1903

Edition of February, 1906

WASHINGTON
GOVERNMENT PRINTING OFFICE
1906

DEPARTMENT OF COMMERCE AND LABOR

Document No. 9

BUREAU OF IMMIGRATION

IMMIGRATION LAWS AND REGULATIONS.

IMMIGRATION REGULATIONS.

DEPARTMENT OF COMMERCE AND LABOR,
BUREAU OF IMMIGRATION,
Washington, D. C., February 2, 1906.

ULE 1. Collectors of customs shall collect, as provided in section 1 he act approved March 3, 1903, a duty of $2 for each and every enger, not a citizen of the United States, or of Canada, or of a, or of Mexico, or of Newfoundland, who shall come by steam or vessel from any foreign port to any port within the United States; no duty shall be paid for such passengers proceeding in contin- s transit through the United States to foreign territory, nor for e who have once been admitted to the United States and have the head tax who shall later go in transit from one part of the ted States to another through foreign contiguous territory.

ULE 2. Under the authority contained in the proviso to section 1 he act approved March 3, 1903, the duty of $2 levied upon rail- s or other transportation agencies for passengers brought by n overland from foreign contiguous territory shall be collected, l otherwise provided, in accordance with the terms of an agree- t between the Commissioner-General of Immigration and cer- transportation companies of the Dominion of Canada, of date ember 1, 1901.

ULE 3. All such moneys so collected, as well as all moneys col- ed for rentals of exclusive privileges at United States immigrant ons, shall be deposited to the credit of the Treasurer of the United es on account of "immigrant fund," with an assistant treasurer of United States, or national-bank depositary, in the same manner as r miscellaneous collections are reported. Separate accounts of receipts and expenditures of money under the act shall be rendered thly to the Secretary of the Treasury through the Department of mmerce and Labor, on forms to be furnished by the Government the purpose.

RULE 4. Every railway company or other transportation agency claiming exemption from payment of the head tax for any passenger brought by it to a point on the land boundary of the United States for entry thereat, under the exemption from such payment provided in section 1 of the act approved March 3, 1903, shall produce to the appropriate officer at such point a letter from an immigration officer at, or nearest to, the alleged residence of such passenger, stating that after investigation said immigration officer has ascertained that said passenger had already been lawfully admitted to the United States and that the head tax for his admission had been paid at the time of such admission, and said company or other transportation agency shall also show, as evidence that the transit of such passenger was continuous, the dated ticket issued to such passenger.

RULE 5. The head tax provided for in section 1 of the act approved March 3, 1903, shall be collected and paid for every alien passenger not specifically excepted therein.

RULE 6. The provisions of the immigration laws, and of regulations passed thereunder, except those of section 1 of the act of March 3, 1903, in relation to the payment of the head tax, extend to all persons not citizens of the United States either by birth or by naturalization therein.

RULE 7. Every alien arriving at a port of the United States shall be promptly examined, as by law provided, either on shipboard or at some other place designated for that purpose. If found admissible, he shall be at once landed, but if upon special inquiry he is denied admission, he shall be informed that he has a right of appeal therefrom, and the fact that he has been so informed shall be entered of record in the minutes of the board's proceedings, but no appeal will be considered after any such alien has, in consequence of an adverse decision of a board of special inquiry, been transferred from an immigrant station to be deported.

RULE 8. Every alien detained for special inquiry, which shall be conducted separate and apart from the public, shall have a speedy hearing, and, upon the conclusion thereof, be either at once landed or ordered deported. If he elects to appeal from said order of deportation, he must, to enable officers to comply with the provisions of section 19 of the act of March 3, 1903, file notice of such appeal promptly, and a like right of appeal may be exercised by any member of a board of special inquiry who dissents from the decision rendered by such board.

RULE 9. Every such notice of appeal shall act as a stay upon the disposal of the alien whose rights are thereby affected until a final decision is rendered by the Department; and, within thirty-six hours after the filing of such notice, the record of the case, together with

such briefs, affidavits, and statements as are to be considered in connection therewith, should be forwarded to the Commissioner-General of Immigration by the immigration officer in charge at the port of arrival, accompanied by his views thereon in writing; but on such appeal of any case to the Department no evidence will be considered which has not already been passed upon in said case by a board of special inquiry. If additional time is granted to the friends or counsel of an appealing alien to prevent a miscarriage of justice, the said immigration officer may require the deposit of a sum of money sufficient to defray the cost of maintaining appellant during the additional time thus allowed.

RULE 10. The commissioner of immigration or the immigration officer in charge at the port of landing shall enter of record the name of every alien found upon examination to be within any of the prohibited classes, with a statement of the decision in each case; and if such decision be appealed from, immediately upon the receipt from the Department of its conclusions thereupon the alien shall be at once landed or deported in accordance with such conclusion. If a landing is refused on appeal, the master, agent, consignee, or owner of the vessel by which the said alien arrived shall be notified thereof by the commissioner or immigration officer in charge, and that the said alien will be placed on the said vessel to be returned as aforesaid.

RULE 11. Attorneys and persons appearing in behalf of detained aliens shall not be permitted to charge a sum exceeding ten dollars ($10) in each case unless the commissioner shall, in writing, allow an additional compensation, which fee shall be payable through the commissioner. Anyone charging an alien a fee prior to his detention, or charging or receiving from an alien or his relatives or friends a fee, gift, or compensation for his services in excess of above rates, or who shall deprive an alien of any part of his chattels or effects in lieu of, or as security for, said fee, shall not be permitted to practice at any immigrant station of the United States.

RULE 12. The expenses incurred for the keeping and maintenance of every alien temporarily removed from a vessel, as provided by law, shall be borne by the owner or owners of the vessel upon which he came until he is lawfully landed or delivered on board such vessel for deportation.

RULE 13. The master, agent, owner, or consignee of any vessel on which aliens are brought to the United States shall, at least twenty-four hours in advance thereof, notify the commissioner of immigration of the intended time of sailing of such vessel, in order that said officer may place on board thereof every alien brought thereon who has been refused a landing.

RULE 14. Every alien professing to seek a landing for the purpose of proceeding directly through the United States to a foreign country shall be examined, and, if found to be a member of any one of the excluded classes, shall be refused permission to land, in the same manner as though he intended to remain in the United States.

RULE 15. No alien desiring admission at a port of the United States for the professed purpose of proceeding directly therefrom to foreign territory shall be permitted to land thereat except after deposit with the collector of customs at said port, by the master or owner of the vessel on which such alien is brought, of the amount of the head tax ($2) prescribed by section 1 of the act approved March 3, 1903; said amount to be refunded upon proof satisfactory to the immigration officer in charge at the port of arrival that said alien has passed by direct and continuous journey through and out of the United States within thirty days from the date of admission, proof of such departure to be furnished within a reasonable time. Special deposits of head tax on account of aliens in transit will, at the expiration of thirty days, be covered into the Treasury as head tax, the cases in which proof of departure is received after thirty days to be reported to the Bureau of Immigration for special authorization, under the provision incorporated in the legislative, executive, and judicial appropriation act approved February 3, 1905.

RULE 16. Every alien who left the port of embarkation in good physical condition, and who would be qualified to land but for some sickness or disability other than a loathsome or a dangerous contagious disease, which was contracted or which developed during the voyage, may either remain on shipboard or be removed for hospital treatment at the expense of the owners of the vessel on which he came, and while detained in hospital he shall not be considered as landed; provided that if the sickness or disability with which such alien is afflicted is so slight, in the judgment of the examining medical officer, as not to require treatment in hospital, and said alien is able to pay for the necessary medical care he needs, he shall be landed. Requests by such owners for reimbursement for hospital expenses may be made only in respect of aliens detained under the provisions of this rule, and then only in a proper manner.

RULE 17. Any alien who has been lawfully landed, but who has become a public charge from subsequently arising physical inability to earn a living, which is likely to be of a permanent nature, may, by consent of the alien and with the approval of the Bureau of Immigration, be deported within one year from date of landing, at the expense of the immigrant fund, provided that such alien is delivered to the immigration officers at a designated port free of charge; and the

charges incurred for the care and treatment of any such alien in any public or charitable institution from the date of notification to an officer of the Bureau of Immigration until the expiration of one year after landing may be paid from the immigrant fund at fixed rates agreed upon.

RULE 18. Any alien who has been finally determined to be admissible may be permitted to wait for friends or remittances upon payment by him of expenses incurred by reason of such delay. In case such an alien is unable, from accident or other unavoidable circumstances, to immediately continue his journey, and is without sufficient means to defray the expense of his enforced delay, the commissioner of immigration may, in his discretion, pay said expense, reporting said case to the Bureau of Immigration with reasons for his action, and request that such expense be repaid out of the immigrant fund.

RULE 19. Not over one accompanying alien (preferably the natural guardian or a relative) shall be detained at the expense of the transportation company for the purpose of caring for an alien who, for any reason, is detained for further inquiry, if the latter requires such care. (See sec. 11, act approved March 3, 1903.)

RULE 20. No application for the admission under bond of a debarred alien will be considered except in cases in which deportation of the alien in whose behalf such application is made would involve the separation of immediate members of a family by whom such alien is accompanied, and in that case only when a deposit of money is made sufficient to defray the expense of maintaining such alien whilst awaiting a decision upon such application.

RULE 21. The cost of returning aliens under the provisions of sections 19, 20, and 21 of the act approved March 3, 1903, shall include all expenses incurred for maintenance of such aliens after such cases are brought to the attention of an officer of the Bureau of Immigration, provided said Bureau, upon investigation, has ascertained the case to be one for deportation and has so ordered.

RULE 22. Every immigration officer deporting any alien under the provisions of section 20 or section 21 of the act of March 3, 1903, shall submit to the Bureau of Immigration for approval bills for one-half the cost of inland transportation of such alien to the seaport of deportation against the vessel or transportation line by which such alien was brought to the United States, in order that the amount so expended by any such officer may be collected.

RULE 23. In case of the failure of the master or commanding officer of any vessel bringing aliens to any port within the United States to deliver to the immigration officers at said port lists or manifests of such aliens, as required in sections 12, 13, and 14 of the act approved March 3, 1903, there shall be paid to the collector of customs at the

port of arrival the sum of $10 for each alien concerning whom the information required by such sections is not contained in any list or manifest as aforesaid. Under an opinion of the Solicitor of the Treasury the fine mentioned in this rule can not be remitted.

RULE 24. The certificate required by section 8 of the act approved March 3, 1893, shall be filed with the Secretary of Commerce and Labor upon the first days of January and July of each year.

RULE 25. No charge for food, lodging, or maintenance, or for hospital attendance, medicines, or other hospital expenses shall be made in excess of the actual cost of furnishing the same, the intention being to make the Service self-sustaining without profit.

RULE 26. Every officer of the United States Public Health and Marine-Hospital Service detailed under section 17 of the act approved March 3, 1903, for duty to any point in the United States shall, during the continuance of such detail, be under the direction (subject to the Public Health and Marine-Hospital Service regulations governing the medical inspection of aliens, as approved by the Secretary of the Treasury November 18, 1902) of the immigration officer in charge of the said port.

RULE 27. There shall be made by the commissioners of immigration at the various ports of the United States and Canada weekly reports to the Bureau of Immigration containing a list of all aliens detained at the close of business on Saturday of each week, in which shall be embodied the following information: Name of alien; age and sex; date of arrival; vessel on which alien arrived; date of detention; cause of detention; whether case has been disposed of, and if so, what disposition has been made of it.

RULE 28. Officers employed in the administration of the immigration and Chinese-exclusion laws are notified that all communications to the Department upon official matters must be addressed to the Commissioner-General of Immigration or to the Secretary of Commerce and Labor.

RULE 29. The cases of aliens who have become public charges should be reported to the immigration officer stationed *nearest* the place where the aliens are confined, such reports to be accompanied by an unequivocal certificate of the principal medical officer of the institution of which such aliens are inmates, setting forth the mental or physical disability of the alien in each instance and stating whether or not such alien is a public charge due to causes existing prior (or arising subsequent) to the landing of such alien in the United States. Sufficient data regarding time and port of arrival and the name of the vessel or line which brought the aliens should also accompany such reports.

RULE 30. In the event that the examining medical officer is able to

certify unequivocally that an alien was, at the time of landing in the United States, afflicted with insanity, idiocy, epilepsy, or a loathsome or dangerous contagious disease, such a certificate will be accepted as *prima facie* evidence of entry in violation of section 2 of the act approved March 3, 1903.

RULE 31. Every immigration officer receiving a report in conformity with rule 29, accompanied by a medical certificate that complies with either rule 29 or rule 30, shall communicate with the officer in charge at the port of entry and, if landing is verified from the official records, shall make application for warrant in the manner provided by circular number eight, Bureau of Immigration. Such aliens will not be removed from the institutions in which they are confined unless, after due hearing, an order of deportation is issued or unless special instructions for removal are incorporated in the warrant.

F. P. SARGENT,
Commissioner-General of Immigration.

Approved:
V. H. METCALF,
Secretary of Commerce and Labor.

EXAMINATION OF ALIEN SEAMEN UNDER THE PROVISIONS OF THE LAWS REGULATING IMMIGRATION.

1903.
DEPARTMENT CIRCULAR No. 10.
BUREAU OF IMMIGRATION.

DEPARTMENT OF COMMERCE AND LABOR,
OFFICE OF THE SECRETARY,
Washington, August 1, 1903.

To commissioners of immigration and other officers charged with the administration of the various laws pertaining to the immigration of aliens:

In view of the opinion of the Attorney-General of the United States, of date September 10, 1901 (23 Op., 521), you are hereby instructed that it is your duty to make such an investigation of every vessel arriving at a port of the United States from any other than a mainland or continental port thereof, as will enable you to ascertain the members of their respective crews who are aliens, as well as the intention of such alien members in seeking a landing.

(1) Alien seamen who seek to land, in the regular course of their pursuit, with the bona fide intention of departing as soon as practicable upon some outward-bound vessel, are not to be held for examination touching their right to land under the various acts regulating immi-

gration into the United States, nor shall the masters of the vessels upon which they come to a port of the United States be charged on their account with the head tax prescribed by section 1 of the act approved March 3, 1903.

(2) Alien seamen who are discharged, or are to be discharged, or who have deserted their vessel at a port of the United States with any other object in view than departing as described in the next preceding paragraph (1) are in no respect to be distinguished on account of their prior calling or occupation as seamen from other aliens seeking admission to this country, either as regards collection of head tax on their account or as respects the examination and determination of their right to remain under the various acts regulating immigration.

(3) All other aliens signed on the ship's articles of any vessel arriving at a port of the United States shall be examined, and in all respects regarded, as alien passengers, on account of whom the head tax should be collected and who should be admitted, or ordered returned to the countries whence they came, in accordance with the laws and regulations governing immigration.

GEO. B. CORTELYOU, *Secretary.*

[Bureau Circular No. 8.]

REGULATIONS GOVERNING WARRANTS—IMMIGRATION SERVICE.

DEPARTMENT OF COMMERCE AND LABOR,
BUREAU OF IMMIGRATION,
Washington, February 5, 1904.

To all officers charged with the enforcement of the immigration laws:

You are hereby directed to conform in future, in making application for warrants for the arrest and deportation of aliens found unlawfully in the United States, to the following regulations:

(1) All such applications must be made, if possible, upon blank forms (No. 565), which will be furnished upon written request to the Commissioner-General of Immigration, Department of Commerce and Labor, and which must be filled out in accordance with the printed lines contained therein, and be accompanied by the certificate of landing or entry (Form No. 564), hereinafter prescribed, or if not so accompanied the reasons for the absence of such certificate must be given, and in that case all the facts called for in the blank form of said certificate shall be set forth in the application, so far as the facts are ascertainable.

(2) A full statement must be made in every such application of the facts, supported if practicable by affidavits, which show the presence in the United States of the alien, whose arrest and deportation is sought, to be in violation of law.

(3) The certificate of landing in, or entry into, the United States must contain a complete statement in detail of all the facts disclosed as to any such alien by the manifest or list containing his name, with an attached certificate by the officer in charge of such manifest that the information given agrees in all particulars with the record of such alien in said list or manifest.

(4) If the circumstances of any particular case necessitate resort to request by wire, such request must state that the foregoing regulations have been complied with, and that the form of application and certificate hereinbefore mentioned have been forwarded to the Department, and must give the substance of the statement of facts contained in the said application and certificate.

(5) If, upon the receipt of any such application and certificate, or of the request by wire provided for in paragraph 4, either completely in conformity with these regulations or accompanied by a satisfactory explanation of inability to comply therewith, it appears to the Secretary that the alien whose arrest and deportation is sought is in the United States unlawfully and that the time within which he can be deported has not expired, a warrant for his arrest will be issued directing that he be taken before an officer, or officers, named therein, and there be given full opportunity to show cause, if there be any, why he should not be deported, and as soon as arrested said alien shall be apprised of his right to be represented by counsel, and he and his counsel shall have the right to inspect all the evidence upon which the Secretary has acted in directing said alien's arrest, and be given an opportunity to offer evidence and submit an argument in his behalf, and be given an opportunity to inspect and make a copy of the report of the hearing and of the findings of the officers before whom it is held. In case said alien is unable to understand or to speak the English language, an interpreter shall, if possible, be employed at the hearing.

(6) If, after the receipt of the report of such hearing, accompanied by the findings of the officers before whom it was held, it shall appear to the satisfaction of the Secretary, from all the evidence, that such alien is in the United States in violation of law and that the time within which he can be deported has not expired, a warrant will be issued for his deportation.

(7) Officers are warned that their duties are not of an inquisitorial nature; but they are directed to make thorough investigation of all cases where they are credibly informed, or have reason to believe, that a specified alien is in the United States in violation of law. It is not permissible for officers to resort to intimidation by threats or violence in order to extort from any suspected alien or from any other person the information to be embodied in the application for the warrant of arrest.

F. P. SARGENT,
Commissioner-General.

Approved:
GEO. B. CORTELYOU,
Secretary.

MEDICAL CERTIFICATES UPON MANIFESTS OF ALIENS BROUGHT TO THE UNITED STATES ON VESSELS SAILING WITHOUT SURGEON.

1904.
DEPARTMENT CIRCULAR No. 50.
BUREAU OF IMMIGRATION.

DEPARTMENT OF COMMERCE AND LABOR,
OFFICE OF THE SECRETARY,
Washington, October 4, 1904.

To whom it may concern:

The immigration act approved March 3, 1903 (section 14), requires that when no surgeon sails with a vessel bringing aliens to the United States the mental and physical examination of such aliens shall be made by "some competent surgeon employed by the owners of the said vessel."

The certificate (unverified) of a responsible surgeon at the point of embarkation or at the last port of call, in the form appearing upon the reverse side of the manifest (Form 500), will, until further notice, be accepted by immigration officers as a compliance with the statute.

Section 15 of the act approved March 3, 1903, reads as follows:

"That in the case of the failure of the master or commanding officer of any vessel to deliver to the said immigration officers lists or manifests of all aliens on board thereof as required in sections twelve, thirteen, and fourteen of this act, he shall pay to the collector of customs at the port of arrival the sum of ten dollars for each alien concerning whom the above information is not contained in any list as aforesaid."

LAWRENCE O. MURRAY,
Acting Secretary.

PROCEDURE FOR IMPOSITION OF FINES ON ACCOUNT OF BRINGING DISEASED ALIENS TO THE UNITED STATES.

DEPARTMENT CIRCULAR No. 58.
BUREAU OF IMMIGRATION.

DEPARTMENT OF COMMERCE AND LABOR,
OFFICE OF THE SECRETARY,
Washington, January 25, 1905.

To whom it may concern:

As a means of enforcing the collection of any fine imposed under the provisions of section 9 of the immigration act approved March 3, 1903, the said section directs the refusal of clearance papers to any vessel bringing any alien, diseased as described therein, to a port of the United States.

To avoid, on the one hand, the denial of reasonable time to the master, agent, owner, or consignee to show cause why such fine should not be imposed, and, on the other hand, the loss of the summary and effective means provided for the collection of such fines, the following regulations are hereby promulgated:

1. *Medical certificates.*—The certificate of the medical examiner in the case of an alien afflicted with a loathsome or dangerous contagious disease shall state in terms whether, in his judgment, the "existence

of such disease might have been detected by means of a competent medical examination at the port of foreign embarkation."

2 *Notification.*—Upon the receipt of a medical certificate in compliance with the preceding paragraph hereof, the commissioner of immigration or inspector in charge at the port of arrival shall *at once* serve notice upon the master, agent, owner, or consignee of the vessel upon which such alien arrived, in the following form, printed blanks for that purpose to be procured from the Department, viz:

DEPARTMENT OF COMMERCE AND LABOR,
IMMIGRATION SERVICE,
OFFICE OF.....
PORT OF.....
....., 190..

To.....,
..... of the steamship .....
[Master, agent, owner, or consignee.]
.....

In conformity with the requirements of Department circular No. 58, you are hereby notified that a certificate of the examining surgeon, based upon a physical examination of the alien whose name is shown herein, indicates that a fine should be imposed under the provisions of section 9 of the immigration act approved March 3, 1903.

If you desire to submit evidence to show that the said fine should not be imposed in this instance, you will be allowed fourteen days from the date of this notice for that purpose, and the vessel on which the said alien arrived will be granted clearance papers when she is ready to sail and allowed to proceed upon her outward-bound voyage, upon condition that you deposit with the collector of customs at this port within twenty-four hours after the receipt of this, or, if said vessel shall sail sooner, prior to her sailing, the sum of one hundred dollars as security for the payment of the said fine, should it be imposed.

Name of alien.	Steamship.	Disease.
.....	.....	.....

(Signature) .....
(Title) .....

Received the above notice ....., 190.., at .....M.
[Time.]
.....
(Witness:)
.....

The notification shall be prepared *in triplicate*, the original to be delivered by an employee of the Immigration Service at the office of the master, agent, owner, or consignee to whom it is addressed, said employee to witness the signature of the recipient. Receipt of service shall be indorsed upon the duplicate and triplicate, the duplicate to be returned to the office of the commissioner of immigration or inspector in charge and preserved as proof of delivery, and the triplicate to be delivered to the collector of customs, who will withhold clearance papers until the deposit is made.

3. *Deposit.*—The special deposit of $100 required to stay action for the period of fourteen days shall be made to the collector of customs for the district wherein the port of arrival is located within twenty-four hours after delivery of the above-described notice, or, if said vessel sails sooner, before such sailing, and in default thereof all further proceedings shall be discontinued and the facts certified to the Bureau of Immigration by first mail, together with the medical certificate and duplicate notice, in order that such action may be taken as the evidence requires.

4. *Stay of action.*—If, upon the expiration of twenty-four hours after service of the notice as provided in paragraph 2 of this circular,

the deposit of $100 has been made in conformity with the said notic
the commissioner of immigration or inspector in charge shall suspe
further proceedings until the submission of the evidence offered
show why the said fine should not be imposed, or until the lapse
the specified period of fourteen days thereafter. When the said e
dence has been submitted it shall be forwarded, together with the c
tificate of the examining surgeon, to the Commissioner-General
Immigration, for presentation to the Secretary of Commerce a
Labor, by the said commissioner or inspector in charge, who shall
the same time present his written views as to whether the said fi
should be imposed. If no evidence is submitted prior to the expi
tion of the said fourteen days, then said commissioner or inspector
charge shall report the case without such evidence for action by t
Secretary of Commerce and Labor.

5. *Final proceedings.*—Upon receipt of the decision of the Secreta
of Commerce and Labor a copy thereof shall be forwarded to the c
lector of customs, together with such data as may enable him to identi
the special deposit made in that particular case. If the said decisi
imposes the fine the $100 deposited as security shall be accounted f
by the said collector in the usual manner as a fine; if the decisi
holds that the penalty has not been incurred the collector of custo
shall return to the depositor the amount deposited as security.

V. H. METCALF,
Secretary.

COLLECTION OF HEAD TAX ON ACCOUNT OF ALIENS CROSSING THE MEXICAN BORDER.

BUREAU CIRCULAR, No. 13.

DEPARTMENT OF COMMERCE AND LABOR,
BUREAU OF IMMIGRATION,
Washington, February 28, 1905.

To officers of the Immigration Service and others concerned:

In conformity with the provisions of the immigration laws the fo
lowing instructions are hereby promulgated in relation to the asses
ment of head tax upon aliens applying for admission to the Unite
States via the Mexican border:

1. Blanks will be provided in the following form, with spaces a
indicated, for statistical data and information as to the manner in whic
the head tax should be assessed, viz:

FORM 548.

Report of inspection—Mexican border.

DEPARTMENT OF COMMERCE AND LABOR,
IMMIGRATION SERVICE.

PORT OF .....,
(*Date*)..... 190 .

Name of passenger, ...; Age,.....; Sex, ...; Married or single, ...
Calling or occupation, ...; Read or write, ...; Nationality, ...
Race, ...; Last residence, ...; Final destination, ...
Ticket to destination, ...; Who paid passage? .....; Money, ...
Going to relative or friend; if so, whom? .....
Ever in U. S.? .....; If so, where and when? .....; Ever in prison, etc.? .....

Polygamist, ...; Anarchist, ...; Contract laborer, ...;
Health, etc., ...
Whether in transit, and if so, how? ....
Admitted on primary inspection, ...
Held for board of special inquiry, ...
Railway, bridge company, or individual responsible for payment of head tax, ...
(*Signature*).....
(*Title*).....

2. These blanks shall be used by every officer of the immigration service making examinations of aliens on the Mexican border, and shall be filled out completely in each case and delivered to the inspector in charge at the port of entry, who will thereupon prepare written notice to the collector of customs, upon blank forms which will be provided, reading as follows:

FORM 589. *Statement of aliens subject to head tax—Mexican border.*

DEPARTMENT OF COMMERCE AND LABOR,
IMMIGRATION SERVICE.
OFFICE OF.....
PORT OF.....,
(*Date*)....., 190 .

COLLECTOR OF CUSTOMS,
Port (or district) of.....

I hereby certify that head tax has been incurred by.....(railway, bridge company, or individual).....on account of alien passenger.. arriving by (*).....on this date as follows:

Aliens subject to head tax, at $2 each, as follows:

..... $.....
....

Amount to be deposited on account of alien.. in transit (Rule 15) and held as special deposit (Treasury decision 24439), as follows:

....
....

Total..... $.....

(*Signature*).....
(*Title*).....

* Give train number or state mode of transportation.

3. In the case of taxable aliens crossing the border by other than regular (bridge or railway) transportation, the same procedure will be followed as above outlined, except that examination shall not proceed beyond the point necessary to determine liability for head tax, until such tax has been paid to the customs officer. The information blank provided in paragraph 1 hereof will necessarily be filled out so far as to determine and report nationality, but further inspection (and admission) will be refused until payment of the head tax.

F. P. SARGENT,
Commissioner-General.

Approved:
V. H. METCALF, *Secretary.*

METHOD OF REPORTING FINES INCURRED UNDER THE IMMIGRATION AND CHINESE EXCLUSION LAWS.

DEPARTMENT CIRCULAR, No. 75.
BUREAU OF IMMIGRATION.

DEPARTMENT OF COMMERCE AND LABOR,
OFFICE OF THE SECRETARY,
Washington, May 10, 1905.

To whom it may concern:

The following regulations in regard to penalties incurred for violations of the laws regulating immigration and relating to the exclusion of Chinese are hereby promulgated, and strict compliance therewith is enjoined:

Commissioners of immigration or inspectors in charge will, in all cases wherein a *United States attorney is requested to institute proceedings* for the recovery of prescribed penalties or to undertake criminal prosecution of an alleged offender against the immigration or Chinese exclusion laws, make a report at the same time to the *collector of customs* for the district in which the offense was alleged to have been committed. Said report shall be rendered in every case which may arise, irrespective of the possible outcome of any legal proceedings, and shall embrace the following: (1) Date when offense was committed; (2) act, and section thereof, violated; (3) nature of offense; (4) name of offender; (5) nationality, kind, and name of vessel; (6) statutory amount of fine; (7) date of reporting case to United States attorney.

Upon receipt of the above reports the collector of customs will give each case a number in chronological order. When more than one section of a statute is violated by the same vessel a separate case number will be given to each violation.

At the close of each month collectors of customs will render reports in the same manner as in the case of navigation and steamboat-inspection fines, viz: All fines incurred during the month must be reported on form Cat. No. 1078, showing, under the heading "Remarks," the date when the case was reported to the United States attorney.

All fines disposed of during the month must be reported on form Cat. No. 1032. In connection with this form the account current (form Cat. No. 1030) must be used.

At the close of June and December in each year, semiannual reports, on form Cat. No. 1079, must be rendered, showing all unsettled cases on hand and explaining the cause of delay in disposing of them.

V. H. METCALF,
Secretary.

[Supersedes Treasury Department Circular No. 97, November 1, 1901.]

INSPECTION OF ALIENS LANDED AT PORTS OF THE DOMINION OF CANADA.

DEPARTMENT CIRCULAR, No. 104.
BUREAU OF IMMIGRATION.

DEPARTMENT OF COMMERCE AND LABOR,
OFFICE OF THE SECRETARY,
Washington, November 24, 1905.

To officers of the Immigration Service and others concerned:

In view of the agreement between the various steamship and railroad companies in the Dominion of Canada and the Commissioner-General of Immigration of the United States of America, the following rules and regulations governing the inspection and entry of aliens into the United States from foreign countries, through Canadian territory, are prescribed in accordance with section 32 of the act of Congress approved March 3, 1903, entitled "An act to regulate the immigration of aliens into the United States," and the acts amendatory thereof and supplementary thereto:

1. All aliens arriving in Canada, destined to the United States, shall be inspected at one of the following ports: Halifax, Nova Scotia; Quebec and Point Levis, Quebec; St. John, New Brunswick, and Vancouver and Victoria, British Columbia; and the holders of certificates, duly signed by the United States Commissioner of Immigration for Canada, shall be entitled to admittance to the United States at any one of the places of entry to the United States along the border without further examination by the immigration officers as to their right to enter, upon their identification and their surrender of said certificates to such officials. The said certificates shall be in the following form:

FORM NO. 524. *Alien certificate.* No. .....

DEPARTMENT OF COMMERCE AND LABOR,
IMMIGRATION SERVICE,

.....; ...

This is to certify that ....., a native of ....., who arrived at the port of ....., per steamship "....." on the ....., 190 , has been duly inspected and registered, and will be admitted into the United States upon proper identification and surrender of this certificate to any immigration officer at the frontier.

The description of the holder is as follows: Age, ...; height, ...; weight, ...; color of hair, ...; color of eyes, ...

Remarks: [Note destination, etc.].....

.....

.....

.....

U. S. Commissioner of Immigration.

Surrendered at ....., to Inspector ....., ..., 190 .
[Date.]

2. The examination at Canadian ports of aliens destined to the United States shall be similar in all respects to that conducted at ports of the United States. Such aliens as, in the opinion of the examining inspector, are not clearly entitled to admission shall be taken before a board of special inquiry, whose decision shall be final, unless reversed upon appeal, as provided for in section 25 of the act approved March 3, 1903.

3. All aliens arriving at said Canadian ports who are adjudged inadmissible to enter the United States shall be refused the certificates herein called for, and the steamship company bringing such aliens shall be

required to return them to the countries from which they respectively came.

4. The masters, owners, or agents of vessels bringing aliens to Canadian ports, destined to the United States, shall be required to furnish to the United States immigrant inspector in charge at said ports access to complete manifests of all alien passengers arriving upon vessels of their respective lines, and, in addition thereto, complete manifests of all alien passengers destined to the United States, such as are required by law in the cases of vessels bringing aliens to ports of the United States; and said masters, owners, or agents shall pay to the United States Commissioner of Immigration for Canada the sum of two dollars for each and every alien not a citizen of the Dominion of Canada, Newfoundland, the Republic of Cuba, or the Republic of Mexico brought to a Canadian port and destined to the United States.

5. All moneys collected as provided in the foregoing rule shall be transmitted by the United States Commissioner of Immigration for Canada to an Assistant Treasurer of the United States, in the same manner as other miscellaneous collections are reported by collectors of customs of the United States, to be deposited to the credit of the Treasurer of the United States on account of the "Immigrant fund." Statement of such receipts, under this agreement, must be rendered monthly to the Secretary of Commerce and Labor, on forms provided for that purpose.

6. Said United States Commissioner of Immigration for Canada shall give bond to the United States in the sum of ten thousand dollars ($10,000), with sureties approved by the Secretary of Commerce and Labor, conditioned for the faithful discharge of his duties and the remittance of above collections. He shall make monthly reports to the Commissioner-General of Immigration, upon blanks to be furnished by the Department of Commerce and Labor, of all aliens arriving at stations under the jurisdiction of the said Commissioner of Immigration.

7. All aliens not provided with certificates as required, who shall apply at the border between Canada and the United States within one year after arriving at a Canadian port, shall be required to return to such port, or to any port designated under rules 1 and 7 of these regulations, for payment of head tax, examination, and certificate described in rule 1 hereinbefore, provided that aliens destined in good faith to Canada, and who shall have settled at some point in the Dominion of Canada, who shall apply as above for admission to the United States within one year after arrival in Canada, shall be examined by the board of special inquiry located at any one of the following points: Yarmouth, Nova Scotia; Montreal, Canada; Buffalo and Suspension Bridge, New York; Detroit, Port Huron, and Sault Ste. Marie, Michigan; Duluth, Minnesota; Winnipeg, Manitoba; Portal, North Dakota; Northport, Sumas, and Blaine, Washington. The decision of said board of special inquiry shall have the same force and effect as decisions of boards of special inquiry at ocean ports of the United States.

8. All facilities in the way of accommodations, access to aliens, and the keeping of aliens apart from the public until after inspection shall be afforded to the immigrant inspectors of the United States at the ports of landing, to enable them to make such inspection as is required by the laws of the United States.

9. It is expected that the railway and other transportation companies in the Dominion of Canada will not sell to any aliens en route to any part of the United States tickets for their transportation, or transport them in cars or vessels from the port of entry, until after they have exhibited their certificates as herein provided, and will not knowingly transport into the United States any rejected or undesirable aliens or those who are by law prohibited from entering its territory, but will return the rejected aliens to the ports at which they arrived.

10. United States officers charged with the execution of the immigration laws and regulations along the Canadian border will, at the end of each month and from time to time as may be required, report in writing to the United States Commissioner of Immigration for Canada, upon blanks to be prescribed by him, the number of aliens passing through their respective ports of entry and the Canadian ports at which they landed, and the said Commissioner of Immigration for Canada will make to the Commissioner-General of Immigration similar reports in consolidated form, comprising both ocean and border ports.

11. The various steamship lines parties to the Canadian agreement shall return from some port of the United States, at their own expense, such aliens as, having been brought into the Dominion of Canada upon their respective lines, have become public charges in the United States within two years thereafter, from causes existing prior thereto, in like manner as aliens who have become public charges under similar conditions are returned by lines which bring them to United States ports.

12. The immigration regulations adopted by the Department of Commerce and Labor relating to the examination of aliens at ports of the United States shall apply, in so far as may be practicable, to the inspection of aliens coming through the Dominion of Canada destined to the United States.

V. H. METCALF,
Secretary.

IMMIGRATION LAWS.

Sections 3 and 5 of an act supplementary to the acts in relation to immigration, approved March 3, 1875, vol. 18, part 3, United States Statutes at Large, provide:

"SEC. 3. That the importation into the United States of women for the purpose of prostitution is hereby forbidden; and all contracts and agreements in relation thereto, made in advance or in pursuance of such illegal importation and purposes, are hereby declared void; and whoever shall knowingly and willfully import, or cause any importation of, women into the United States for the purposes of prostitution, or shall knowingly or willfully hold, or attempt to hold, any women to such purposes, in pursuance of such illegal importation and contract or agreement, shall be deemed guilty of a felony, and, on conviction thereof, shall be imprisoned not exceeding five years and pay a fine not exceeding five thousand dollars."

"SEC. 5. That it shall be unlawful for aliens of the following classes to immigrate into the United States, namely, persons who are undergoing a sentence for conviction in their own country of felonious crimes other than political or growing out of or the result of such political offenses, or whose sentence has been remitted on condition of their emigration, and women 'imported for the purposes of prostitution.' Every vessel arriving in the United States may be inspected under the direction of the collector of the port at which it arrives, if he shall have reason to believe that any such obnoxious persons are on board; and the officer making such inspection shall certify the result thereof to the master or other person in charge of such vessel, designating in such certificate the person or persons, if any there be, ascertained by him to be of either of the classes whose importation is hereby forbidden. When such inspection is required by the collector as aforesaid, it shall be unlawful, without his permission, for any alien to leave any such vessel arriving in the United States from a foreign country until the inspection shall have been had and the result certified as herein provided; and at no time thereafter shall any alien certified to by the inspecting officer as being of either of the classes whose immigation is forbidden by this section be allowed to land in the United States, except in obedience to a judicial process issued pursuant to law. If any person shall feel aggrieved by the certificate of such inspecting officer stating him or her to be within either of the classes whose immigration is forbidden by this section, and shall apply for release or other remedy to any proper court or judge, then it shall be the duty of the collector at said port of entry to detain said vessel until a hearing and determination of the matter are had, to the end that if the said inspector shall be found to be in accordance with this section, and sustained, the obnoxious person or persons shall be returned on board of said vessel, and shall not thereafter be permitted to land, unless the master, owner, or consignee

of the vessel shall give bond and security, to be approved by the court or judge hearing the cause, in the sum of five hundred dollars for each such person permitted to land, conditioned for the return of such person, within six months from the date thereof, to the country whence his or her emigration shall have taken place, or unless the vessel bringing such obnoxious person or persons shall be forfeited, in which event the proceeds of such forfeiture shall be paid over to the collector of the port of arrival, and applied by him, as far as necessary, to the return of such person or persons to his or her own country within the said period of six months. And for all violations of this act, the vessel, by the acts, omissions, or connivance of the owners, master, or other custodian, or the consignees of which the same are committed, shall be liable to forfeiture, and may be proceeded against as in cases of frauds against the revenue laws, for which forfeiture is prescribed by existing law."

Approved, March 3, 1875.

AN ACT to regulate immigration.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be levied, collected, and paid a duty of fifty cents for each and every passenger not a citizen of the United States who shall come by steam or sail vessel from a foreign port to any port within the United States. The said duty shall be paid to the collector of customs of the port to which such passenger shall come, or if there be no collector at such port, then to the collector of customs nearest thereto, by the master, owner, agent, or consignee of every such vessel, within twenty-four hours after the entry thereof into such port. The money thus collected shall be paid into the United States Treasury and shall constitute a fund to be called the immigrant fund and shall be used, under the direction of the Secretary of the Treasury [Secretary of Commerce and Labor], to defray the expense of regulating immigration under this act and for the care of immigrants arriving in the United States, for the relief of such as are in distress, and for the general purposes and expenses of carrying this act into effect. The duty imposed by this section shall be a lien upon the vessels which shall bring such passengers into the United States, and shall be a debt in favor of the United States against the owner or owners of such vessels, and the payment of such duty may be enforced by any legal or equitable remedy: *Provided*, That no greater sum shall be expended for the purposes hereinbefore mentioned, at any port, than shall have been collected at such port.

SEC. 2. That the Secretary of the Treasury [Secretary of Commerce and Labor] is hereby charged with the duty of executing the provisions of this act and with supervision over the business of immigration to the United States, and for that purpose he shall have power to enter into contracts with such State commission, board, or officers as may be designated for that purpose by the governor of any State to take charge of the local affairs of immigration in the ports within said State, and to provide for the support and relief of such immigrants therein landing as may fall into distress or need public aid, under the rules and regulations to be prescribed by said Secretary; and it shall be the duty of such State commission, board, or officers so designated to examine into the condition of passengers arriving at the ports within

such State in any ship or vessel, and for that purpose all or any of such commissioners, or officers or such other person or persons as they shall appoint, shall be authorized to go on board of and through any such ship or vessel; and if on such examination there shall be found among such passengers any convict, lunatic, idiot, or any person unable to take care of himself or herself without becoming a public charge, they shall report the same in writing to the collector of such port, and such person shall not be permitted to land.

SEC. 3. That the Secretary of the Treasury [Secretary of Commerce and Labor] shall establish such regulations and rules and issue from time to time such instructions, not inconsistent with law, as he shall deem best calculated to protect the United States and immigrants into the United States from fraud and loss and for carrying out the provisions of this act and the immigration laws of the United States; and he shall prescribe all forms of bonds, entries, and other papers to be used under and in the enforcement of the various provisions of this act.

SEC. 4. That all foreign convicts, except those convicted of political offenses, upon arrival, shall be sent back to the nations to which they belong and from whence they came. The Secretary of the Treasury [Secretary of Commerce and Labor] may designate the State board of charities of any State in which such board shall exist by law, or any commission in any State, or any person or persons in any State whose duty it shall be to execute the provisions of this section without compensation. The Secretary of the Treasury [Secretary of Commerce and Labor] shall prescribe regulations for the return of the aforesaid persons to the countries from whence they came and shall furnish instructions to the board, commission, or persons charged with the execution of the provisions of this section as to the mode of procedure in respect thereto, and may change such instructions from time to time. The expense of such return of the aforesaid persons not permitted to land shall be borne by the owners of the vessel in which they came.

SEC. 5. That this act shall take effect immediately.

Approved August 3, 1882.

AN ACT to remove certain burdens on the American merchant marine and encourage the American foreign carrying trade, and for other purposes, approved June 26, 1884.

SEC. 22. That until the provisions of section one, chapter three hundred and seventy-six, of the laws of eighteen hundred and eighty-two, shall be made applicable to passengers coming into the United States by land carriage, said provisions shall not apply to passengers coming by vessels employed exclusively in the trade between the ports of the United States and the ports of the Dominion of Canada or the ports of Mexico.

ACT OF FEBRUARY 26, 1885.

ORIGINAL ACT.

AN ACT to prohibit the importation and immigration of foreigners and aliens under contract or agreement to perform labor in the United States, its Territories, and the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after

the passage of this act it shall be unlawful for any person, company, partnership, or corporation, in any manner whatsoever, to prepay the transportation, or in any way assist or encourage the importation or migration of any alien or aliens, any foreigner or foreigners, into the United States, its Territories, or the District of Columbia, under contract or agreement, parol or special, express or implied, made previous to the importation or migration of such alien or aliens, foreigner or foreigners, to perform labor or service of any kind in the United States, its Territories, or the District of Columbia.

SEC. 2. That all contracts or agreements, express or implied, parol or special, which may hereafter be made by and between any person, company, partnership, or corporation, and any foreigner or foreigners, alien or aliens, to perform labor or service or having reference to the performance of labor or service by any person in the United States, its Territories, or the District of Columbia, previous to the migration or importation of the person or persons whose labor or service is contracted for into the United States, shall be utterly void and of no effect.

SEC. 3. That for every violation of any of the provisions of section one of this act the person, partnership, company, or corporation violating the same, by knowingly assisting, encouraging or soliciting the migration or importation of any alien or aliens, foreigner or foreigners, into the United States, its Territories, or the District of Columbia, to perform labor or service of any kind under contract or agreement, express or implied, parol or special, with such alien or aliens, foreigner or foreigners, previous to becoming residents or citizens of the United States, shall forfeit and pay for every such offense the sum of one thousand dollars, which may be sued for and recovered by the United States or by any person who shall first bring his action therefor, including any such alien or foreigner who may be a party to any such contract or agreement, as debts of like amount are now recovered in the circuit courts of the United States; the proceeds to be paid into the Treasury of the United States; and separate suits may be brought for each alien or foreigner being a party to such contract or agreement aforesaid. And it shall be the duty of the district attorney of the proper district to prosecute every such suit at the expense of the United States.

SEC. 4. That the master of any vessel who shall knowingly bring within the United States on any such vessel, and land, or permit to be landed, from any foreign port or place, any alien laborer, mechanic, or artisan who, previous to embarkation on such vessel, had entered into contract or agreement, parol or special, express or implied, to perform labor or service in the United States, shall be deemed guilty of a misdemeanor and, on conviction thereof, shall be punished by a fine of not more that five hundred dollars for each and every such alien laborer, mechanic, or artisan so brought as aforesaid, and may also be imprisoned for a term not exceeding six months.

SEC. 5. That nothing in this act shall be so construed as to prevent any citizen or subject of any foreign country temporarily residing in the United States, either in private or official capacity, from engaging, under contract or otherwise, persons not residents or citizens of the United States to act as private secretaries, servants, or domestics for such foreigners temporarily residing in the United States as aforesaid; nor shall this act be so construed as to prevent any person, or persons,

partnership, or corporation from engaging, under contract or agreement, skilled workmen in foreign countries to perform labor in the United States in or upon any new industry not at present established in the United States: *Provided*, That skilled labor for that purpose can not be otherwise obtained; nor shall the provisions of this act apply to professional actors, artists, lecturers, or singers, nor to persons employed strictly as personal or domestic servants: *Provided*, That nothing in this act shall be construed as prohibiting any individual from assisting any member of his family or any relative or personal friend, to migrate from any foreign country to the United States, for the purpose of settlement here.

SEC. 6. That all laws or parts of laws conflicting herewith be, and the same are hereby, repealed.

Approved February 26, 1885 (23 Stat L., 332).

AMENDATORY ACT.

AN ACT to prohibit the importation and immigration of foreigners and aliens under contract or agreement to perform labor in the United States, the Territories, and the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That an act to prohibit the importation and immigration of foreigners and aliens under contract or agreement to perform labor in the United States, its Territories, and the District of Columbia, approved February twenty-sixth, eighteen hundred and eighty-five, and to provide for the enforcement thereof, be amended by adding the following:

"SEC. 6. That the Secretary of the Treasury [Secretary of Commerce and Labor] is hereby charged with the duty of executing the provisions of this act, and for that purpose he shall have power to enter into contracts with such State commission, board, or officers as may be designated for that purpose by the governor of any State to take charge of the local affairs of immigration in the ports within said State, under the rules and regulations to be prescribed by said Secretary; and it shall be the duty of such State commission, board, or officers so designated to examine into the condition of passengers arriving at the ports within such State in any ship or vessel, and for that purpose all or any of such commissioners or officers or such other person or persons as they shall appoint shall be authorized to go on board of and through any such ship or vessel; and if in such examination there shall be found among such passengers any person included in the prohibition in this act, they shall report the same in writing to the collector of such port, and such person shall not be permitted to land.

"SEC. 7. That the Secretary of the Treasury [Secretary of Commerce and Labor] shall establish such regulations and rules, and issue from time to time such instructions not inconsistent with law, as he shall deem best calculated for carrying out the provisions of this act; and he shall prescribe all forms of bonds, entries, and other papers to be used under and in the enforcement of the various provisions of this act.

"SEC. 8. That all persons included in the prohibition in this act, upon arrival, shall be sent back to the nations to which they belong and from whence they came. The Secretary of the Treasury [Secre-

tary of Commerce and Labor] may designate the State board of charities of any State in which such board shall exist by law, or any commission in any State, or any person or persons in any State, whose duty it shall be to execute the provisions of this section and shall be entitled to reasonable compensation therefor to be fixed by regulation prescribed by the Secretary of the Treasury [Secretary of Commerce and Labor]. The Secretary of the Treasury [Secretary of Commerce and Labor] shall prescribe regulations for the return of the aforesaid persons to the countries from whence they came, and shall furnish instructions to the board, commission, or persons charged with the execution of the provisions of this section as to the time of procedure in respect thereto, and may change such instructions from time to time. The expense of such return of the aforesaid persons not permitted to land shall be borne by the owners of the vessels in which they came. And any vessel refusing to pay such expenses shall not thereafter be permitted to land at or clear from any port of the United States. And such expenses shall be a lien on said vessel. That the necessary expense in the execution of this act for the present fiscal year shall be paid out of any money in the Treasury not otherwise appropriated.

"SEC. 9 That all acts and parts of acts inconsistent with this act are hereby repealed.

"SEC. 10. That this act shall take effect at the expiration of thirty days after its passage."

Approved, February 23, 1887 (24 Stat. L., 414).

AMENDMENT TO THE ALIEN CONTRACT-LABOR LAW CONTAINED IN THE DEFICIENCY BILL APPROVED OCTOBER 19, 1888 (25 STAT. L., 565).

That the act approved February twenty-third, eighteen hundred and eighty-seven, entitled "An act to amend an act to prohibit the importation and immigration of foreigners and aliens under contract or agreement to perform labor in the United States, its Territories, and the District of Columbia," be, and the same is hereby, so amended as to authorize the Secretary of the Treasury [Secretary of Commerce and Labor], in case that he shall be satisfied that an immigrant has been allowed to land contrary to the prohibition of that law, to cause such immigrant, within the period of one year after landing or entry, to be taken into custody and returned to the country from whence he came, at the expense of the owner of the importing vessel; or, if he entered from an adjoining country, at the expense of the person previously contracting for the services.

ACT OF MARCH 3, 1891.

AN ACT in amendment to the various acts relative to immigration and the importation of aliens under contract or agreement to perform labor.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following classes of aliens shall be excluded from admission into the United States, in accordance with the existing acts regulating immigration, other than those concerning Chinese laborers: All idiots, insane per-

sons, paupers or persons likely to become a public charge, persons suffering from a loathsome or a dangerous contagious disease, persons who have been convicted of a felony or other infamous crime or misdemeanor involving moral turpitude, polygamists, and also any person whose ticket or passage is paid for with the money of another or who is assisted by others to come, unless it is affirmatively and satisfactorily shown on special inquiry that such person does not belong to one of the foregoing excluded classes, or to the class of contract laborers excluded by the act of February twenty-sixth, eighteen hundred and eighty-five, but this section shall not be held to exclude persons living in the United States from sending for a relative or a friend who is not of the excluded classes under such regulations as the Secretary of the Treasury [Secretary of Commerce and Labor] may prescribe: *Provided*, That nothing in this act shall be construed to apply to or exclude persons convicted of a political offense, notwithstanding said political offense may be designated as a "felony, crime, infamous crime, or misdemeanor, involving moral turpitude" by the laws of the land whence he came or by the court convicting.

SEC. 2. That no suit or proceeding for violations of said act of February twenty-sixth, eighteen hundred and eighty-five, prohibiting the importation and migration of foreigners under contract or agreement to perform labor shall be settled, compromised, or discontinued without the consent of the court entered of record with reasons therefor.

SEC. 3. That it shall be deemed a violation of said act of February twenty-sixth, eighteen hundred and eighty-five, to assist or encourage the importation or migration of any alien by promise of employment through advertisements printed and published in any foreign country; and any alien coming to this country in consequence of such an advertisement shall be treated as coming under a contract as contemplated by such act; and the penalties by said act imposed shall be applicable in such a case: *Provided*, This section shall not apply to States and immigration bureaus of States advertising the inducements they offer for immigration to such States.

SEC. 4. That no steamship or transportation company or owners of vessels shall directly or through agents, either by writing, printing, or oral representations, solicit, invite, or encourage the immigration of any alien into the United States except by ordinary commercial letters, circulars, advertisements, or oral representations, stating the sailings of their vessels and the terms and facilities of transportation therein; and for a violation of this provision any such steamship or transportation company, and any such owners of vessels, and the agents by them employed, shall be subjected to the penalties imposed by the third section of said act of February twenty-sixth, eighteen hundred and eighty-five, for violations of the provisions of the first section of said act.

SEC. 5. That section five of said act of February twenty-sixth, eighteen hundred and eighty-five, shall be, and hereby is, amended by adding to the second proviso in said section the words "nor to ministers of any religious denomination, nor persons belonging to any recognized profession, nor professors for colleges and seminaries," and by excluding from the second proviso of said section the words "or any relative or personal friend."

SEC. 6. That any person who shall bring into or land in the United States by vessel or otherwise, or who shall aid to bring into or land in the United States by vessel or otherwise, any alien not lawfully entitled to enter the United States shall be deemed guilty of a misdemeanor, and

shall, on conviction, be punished by a fine not exceeding one thousand dollars, or by imprisonment for a term not exceeding one year, or by both such fine and imprisonment.

SEC. 7. That the office of superintendent of immigration is hereby created and established, and the President, by and with the advice and consent of the Senate, is authorized and directed to appoint such officer, whose salary shall be four thousand dollars per annum, payable monthly. The superintendent of immigration shall be an officer in the Treasury Department, under the control and supervision of the Secretary of the Treasury [Secretary of Commerce and Labor], to whom he shall make annual reports in writing of the transactions of his office, together with such special reports, in writing, as the Secretary of the Treasury [Secretary of Commerce and Labor] shall require. The Secretary shall provide the superintendent with a suitably furnished office in the city of Washington, and with such books of record and facilities for the discharge of the duties of his office as may be necessary. He shall have a chief clerk at a salary of two thousand dollars per annum, and two first-class clerks.

SEC. 8. That upon the arrival by water at any place within the United States of any alien immigrants it shall be the duty of the commanding officer and the agents of the steam or sailing vessel by which they came to report the name, nationality, last residence, and destination of every such alien, before any of them are landed, to the proper inspection officers, who shall thereupon go or send competent assistants on board such vessel and there inspect all such aliens, or the inspection officers may order a temporary removal of such aliens for examination at a designated time and place, and then and there detain them until a thorough inspection is made. But such a removal shall not be considered a landing during the pendency of such examination. The medical examination shall be made by surgeons of the Marine-Hospital Service. In cases where the services of a marine-hospital surgeon can not be obtained without causing unreasonable delay, the inspector may cause an alien to be examined by a civil surgeon and the Secretary of the Treasury [Secretary of Commerce and Labor] shall fix the compensation for such examination. The inspection officers and their assistants shall have power to administer oaths, and to take and consider testimony touching the right of such aliens to enter the United States, all of which shall be entered of record. During such inspection after temporary removal the superintendent shall cause such aliens to be properly housed, fed, and cared for, and also, in his discretion, such as are delayed in proceeding to their destination after inspection. All decisions made by the inspection officers or their assistants touching the right of any alien to land, when adverse to such right, shall be final unless appeal be taken to the superintendent of immigration, whose action shall be subject to review by the Secretary of the Treasury [Secretary of Commerce and Labor]. It shall be the duty of the aforesaid officers and agents of such vessel to adopt due precautions to prevent the landing of any alien immigrant at any place or time other than that designated by the inspection officers, and any such officer or agent or person in charge of such vessel who shall either knowingly or negligently land or permit to land any alien immigrant at any place or time other than that designated by the inspection officers, shall be deemed guilty of a misdemeanor and punished by a fine not exceeding one thousand dollars, or by imprisonment for a term not exceeding one year, or by both such fine and imprisonment.

That the Secretary of the Treasury [Secretary of Commerce and Labor] may prescribe rules for inspection along the borders of Canada, British Columbia, and Mexico, so as not to obstruct or unnecessarily delay, impede, or annoy passengers in ordinary travel between said countries: *Provided*, That not exceeding one inspector shall be appointed for each customs district, and whose salary shall not exceed twelve hundred dollars per year.

All duties imposed and powers conferred by the second section of the act of August third, eighteen hundred and eighty-two, upon State commissions, boards, or officers acting under contract with the Secretary of the Treasury [Secretary of Commerce and Labor] shall be performed and exercised, as occasion may arise, by the inspection officers of the United States.

SEC. 9. That for the preservation of the peace and in order that arrests may be made for crimes under the laws of the States where the various United States immigrant stations are located, the officials in charge of such stations as occasion may require shall admit therein the proper State and municipal officers charged with the enforcement of such laws, and for the purposes of this section the jurisdiction of such officers and of the local courts shall extend over such stations.

SEC. 10. That all aliens who may unlawfully come into the United States shall, if practicable, be immediately sent back on the vessel by which they were brought in. The cost of their maintenance while on land, as well as the expense of the return of such aliens, shall be borne by the owner or owners of the vessel on which such aliens came; and if any master, agent, consignee, or owner of such vessel shall refuse to receive back on board the vessel such aliens, or shall neglect to detain them thereon, or shall refuse or neglect to return them to the port from which they came, or to pay the cost of their maintenance while on land, such master, agent, consignee, or owner shall be deemed guilty of a misdemeanor, and shall be punished by a fine not less than three hundred dollars for each and every offense; and any such vessel shall not have clearance from any port of the United States while any such fine is unpaid.

SEC. 11. That any alien who shall come into the United States in violation of law may be returned as by law provided, at any time within one year thereafter, at the expense of the person or persons, vessel, transportation company, or corporation bringing such alien into the United States, and if that can not be done, then at the expense of the United States, and any alien who becomes a public charge within one year after his arrival in the United States from causes existing prior to his landing therein shall be deemed to have come in violation of law and shall be returned as aforesaid.

SEC. 12. That nothing contained in this act shall be construed to affect any prosecution or other proceeding, criminal or civil, begun under any existing act or any acts hereby amended, but such prosecution or other proceedings, criminal or civil, shall proceed as if this act had not been passed.

SEC. 13. That the circuit and district courts of the United States are hereby invested with full and concurrent jurisdiction of all causes, civil and criminal, arising under any of the provisions of this act, and this act shall go into effect on the first day of April, eighteen hundred and ninety-one.

Approved March 3, 1891.

AN ACT granting additional quarantine powers and imposing additional duties upon the Marine-Hospital Service.

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SEC. 7. That whenever it shall be shown to the satisfaction of the President that by reason of the existence of cholera, or other infectious or contagious diseases, in a foreign country there is serious danger of the introduction of the same into the United States, and that notwithstanding the quarantine defense this danger is so increased by the introduction of persons or property from such country that a suspension of the right to introduce the same is demanded, in the interest of the public health, the President shall have power to prohibit, in whole or in part, the introduction of persons and property from such countries or places as he shall designate and for such period of time as he may deem necessary.

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Act approved February 15, 1893 (27 Stat. L., p. 449).

ACT OF MARCH 3, 1893.

AN ACT to facilitate the enforcement of the immigration and contract-labor laws of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in addition to conforming to all present requirements of law, upon the arrival of any alien immigrants by water at any port within the United States, it shall be the duty of the master or commanding officer of the steamer or sailing vessel having said immigrants on board to deliver to the proper inspector of immigration at the port lists or manifests made at the time and place of embarkation of such alien immigrants on board such steamer or vessel, which shall, in answer to questions at the top of said lists, state as to each immigrant the full name, age, and sex, whether married or single; the calling or occupation; whether able to read or write; the nationality; the last residence; the seaport for landing in the United States; the final destination, if any, beyond the seaport of landing; whether having a ticket through to such final destination; whether the immigrant has paid his own passage, or whether it has been paid by other persons or by any corporation, society, municipality, or government; whether in possession of money, and if so, whether upward of thirty dollars and how much if thirty dollars or less; whether going to join a relative, and if so, what relative and his name and address; whether ever before in the United States, and if so, when and where; whether ever in prison or almshouse or supported by charity; whether a polygamist; whether under contract, express or implied, to perform labor in the United States; and what is the immigrant's condition of health mentally and physically, and whether deformed or crippled, and if so, from what cause.

SEC. 2. That the immigrants shall be listed in convenient groups

and no one list or manifest shall contain more than thirty names. To each immigrant or head of a family shall be given a ticket on which shall be written his name, a number or letter designating the list, and his number on the list, for convenience of identification on arrival. Each list or manifest shall be verified by the signature and the oath or affirmation of the master or commanding officer or of the officer first or second below him in command, taken before the United States consul or consular agent at the port of departure, before the sailing of said vessel, to the effect that he has made a personal examination of each and all of the passengers named therein, and that he has caused the surgeon of said vessel sailing therewith to make a physical examination of each of said passengers, and that from his personal inspection and the report of said surgeon he believes that no one of said passengers is an idiot or insane person, or a pauper or likely to become a public charge, or suffering from a loathsome or dangerous contagious disease, or a person who has been convicted of a felony or other infamous crime or misdemeanor involving moral turpitude, or a polygamist, or under a contract or agreement, express or implied, to perform labor in the United States, and that also, according to the best of his knowledge and belief, the information in said list or manifest concerning each of said passengers named therein is correct and true.

SEC. 3. That the surgeon of said vessel sailing therewith shall also sign each of said lists or manifests before the departure of said vessel, and make oath or affirmation in like manner before said consul or consular agent, stating his professional experience and qualifications as a physician and surgeon, and that he has made a personal examination of each of the passengers named therein and that said list or manifest, according to the best of his knowledge and belief, is full, correct, and true in all particulars relative to the mental and physical condition of said passengers. If no surgeon sails with any vessel bringing alien immigrants, the mental and physical examinations and the verifications of the lists or manifests may be made by some competent surgeon employed by the owners of the vessel.

SEC. 4. That in the case of the failure of said master or commanding officer of said vessel to deliver to the said inspector of immigration lists or manifests, verified as aforesaid, containing the information above required as to all alien immigrants on board, there shall be paid to the collector of customs at the port of arrival the sum of ten dollars for each immigrant qualified to enter the United States concerning whom the above information is not contained in any list as aforesaid, or said immigrants shall not be permitted so to enter the United States, but shall be returned like other excluded persons.

SEC. 5. That it shall be the duty of every inspector of arriving alien immigrants to detain for a special inquiry, under section one of the immigration act of March third, eighteen hundred and ninety-one, every person who may not appear to him to be clearly and beyond doubt entitled to admission, and all special inquiries shall be conducted by not less than four officials acting as inspectors, to be designated in writing by the Secretary of the Treasury [Secretary of Commerce and Labor], or the superintendent of immigration, for conducting special inquiries; and no immigrant shall be admitted on special inquiry except after a favorable decision made by at least three of said inspect-

ors; and any decision to admit shall be subject to appeal by any dissenting inspector to the superintendent of immigration, whose action shall be subject to review by the Secretary of the Treasury [Secretary of Commerce and Labor], as provided in section eight of said immigration act of March third, eighteen hundred and ninety-one.

SEC. 6. That section five of the act of March third, eighteen hundred and ninety-one, "in amendment of the various acts relative to immigration and the importation of aliens under contract or agreement to perform labor," is hereby amended by striking out the words "second proviso" where they first occur in said section and inserting the words "first proviso" in their place; and section eight of said act is hereby so amended that the medical examinations of arriving immigrants to be made by surgeons of the Marine-Hospital Service may be made by any regular medical officers of such Marine-Hospital Service detailed therefor by the Secretary of the Treasury; and civil surgeons shall only be employed temporarily from time to time for specific emergencies.

SEC. 7. That no bond or guaranty, written or oral, that an alien immigrant shall not become a public charge shall be received from any person, company, corporation, charitable or benevolent society or association, unless authority to receive the same shall in each special case be given by the superintendent of immigration, with the written approval of the Secretary of the Treasury [Secretary of Commerce and Labor].

SEC. 8. That all steamship or transportation companies, and other owners of vessels, regularly engaged in transporting alien immigrants to the United States, shall twice a year file a certificate with the Secretary of the Treasury [Secretary of Commerce and Labor] that they have furnished to be kept conspicuously exposed to view in the office of each of their agents in foreign countries authorized to sell emigrant tickets, a copy of the law of March third, eighteen hundred and ninety-one, and of all subsequent laws of this country relative to immigration, printed in large letters, in the language of the country where the copy of the law is to be exposed to view, and that they have instructed their agents to call the attention thereto of persons contemplating emigration before selling tickets to them; and in case of the failure for sixty days of any such company or any such owners to file such a certificate, or in case they file a false certificate, they shall pay a fine of not exceeding five hundred dollars, to be recovered in the proper United States court, and said fine shall also be a lien upon any vessel of said company or owners found within the United States.

SEC. 9. That after the first day of January, eighteen hundred and ninety-three, all exclusive privileges of exchanging money, transporting passengers or baggage, or keeping eating houses, and all other like privileges in connection with the Ellis Island immigrant station, shall be disposed of after public competition, subject to such conditions and limitations as the Secretary of the Treasury [Secretary of Commerce and Labor] may prescribe.

SEC. 10. That this act shall not apply to Chinese persons; and shall take effect as to vessels departing from foreign ports for ports within the United States after sixty days from the passage of this act.

Approved, March 3, 1893.

AN ACT making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-five, and for other purposes.

Be it enacted, etc.,

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In every case where an alien is excluded from admission into the United States under any law or treaty now existing or hereafter made, the decision of the appropriate immigration or customs officers, if adverse to the admission of such alien, shall be final, unless reversed on appeal to the Secretary of the Treasury [Secretary of Commerce and Labor].

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"The head money from alien passengers on and after the first day of October next, collected under the act of August third, eighteen hundred and eighty-two, to regulate immigration, shall be one dollar in lieu of the fifty cents as provided in said act. That such head money and all other receipts which shall be collected on and after July first, eighteen hundred and ninety-five, in connection with immigration shall be covered into the Treasury. * * *

"The commissioners of immigration at the several ports shall be appointed by the President, by and with the advice and consent of the Senate, to hold their offices for the term of four years, unless sooner removed, and until their successors are appointed; and nominations for such offices shall be made to the Senate by the President as soon as practicable after the passage of this act."

Approved, August 18, 1894.

AN ACT making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1896, and for other purposes, approved March 2, 1895, under the head "Bureau of Immigration," provides:

That the Superintendent of Immigration shall hereafter be designated as Commissioner-General of Immigration, and, in addition to his other duties, shall have charge, under the Secretary of the Treasury [Secretary of Commerce and Labor], of the administration of the alien contract-labor laws, etc.

ACT OF JUNE 6, 1900.

AN ACT making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and one, and for other purposes.

Be it enacted, etc.,

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* * * and hereafter the Commissioner-General of Immigration, in addition to his other duties, shall have charge of the administration of the Chinese-exclusion law and of the various acts regulating immigration into the United States, its Territories, and the District of Columbia, under the supervision and direction of the Secretary of the Treasury [Secretary of Commerce and Labor].

Approved, June 6, 1900.

ACT OF APRIL 29, 1902.

AN ACT to prohibit the coming into and to regulate the residence within the United States, its Territories, and all territory under its jurisdiction, and the District of Columbia, of Chinese and persons of Chinese descent.

Be it enacted, etc.,

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SEC. 3. That nothing in the provisions of this Act or any other Act shall be construed to prevent, hinder, or restrict any foreign exhibitor, representative, or citizen of any foreign nation, or the holder, who is a citizen of any foreign nation, of any concession or privilege from any fair or exposition authorized by Act of Congress from bringing into the United States, under contract, such mechanics, artisans, agents, or other employees, natives of their respective foreign countries, as they or any of them may deem necessary for the purpose of making preparation for installing or conducting their exhibits or of preparing for installing or conducting any business authorized or permitted under or by virtue of or pertaining to any concession or privilege which may have been or may be granted by any said fair or exposition in connection with such exposition, under such rules and regulations as the Secretary of the Treasury [Secretary of Commerce and Labor] may prescribe, both as to the admission and return of such person or persons.

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Approved, April 29, 1902 (32 Stat., part 1, p. 176).

ACT OF MARCH 3, 1903.

AN ACT to regulate the immigration of aliens into the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be levied, collected, and paid a duty of two dollars for each and every passenger not a citizen of the United States, or of the Dominion of Canada,[a] the Republic of Cuba, or of the Republic of Mexico, who shall come by steam, sail, or other vessel from any foreign port to any port within the United States, or by any railway or any other mode of transportation, from foreign contiguous territory to the United States. The said duty shall be paid to the collector of customs of the port or customs district to which said alien passenger shall come, or, if there be no collector at such port or district, then to the collector nearest thereto, by the master, agent, owner, or consignee of every such vessel or transportation line. The money thus collected shall be paid into the United States Treasury and shall constitute a permanent appropriation to be called the "immigrant fund," to be used under the direction of the Secretary of the Treasury [Secretary of Commerce and Labor] to defray the expense of regulating the immigration of aliens into the United States under this Act, including the cost of reports of decisions of the Federal courts, and digests thereof, for the use of the Commissioner-General of Immigration, and the salaries and expenses of all officers, clerks, and employees appointed for the purpose of enforcing the provisions of this Act. The duty imposed by this section shall be a lien upon the vessel which shall bring such aliens to ports of the United States, and shall be a debt in favor of the United States against the owner or owners of such vessels, and the payment of such duty may be enforced

[a] See Act approved March 22, 1904.

by any legal or equitable remedy; the head tax herein provided for shall not be levied upon aliens in transit through the United States nor upon aliens who have once been admitted into the United States and have paid the head tax who later shall go in transit from one part of the United States to another through foreign contiguous territory: *Provided*, That the Commissioner-General of Immigration, under the direction or with the approval of the Secretary of the Treasury [Secretary of Commerce and Labor], by agreement with transportation lines, as provided in section thirty-two of this Act, may arrange in some other manner for the payment of the duty imposed by this section upon aliens seeking admission overland, either as to all or as to any such aliens.

SEC. 2. That the following classes of aliens shall be excluded from admission into the United States: All idiots, insane persons, epileptics, and persons who have been insane within five years previous; persons who have had two or more attacks of insanity at any time previously; paupers; persons likely to become a public charge; professional beggars; persons afflicted with a loathsome or with a dangerous contagious disease; persons who have been convicted of a felony or other crime or misdemeanor involving moral turpitude; polygamists, anarchists, or persons who believe in or advocate the overthrow by force or violence of the Government of the United States or of all government or of all forms of law, or the assassination of public officials; prostitutes, and persons who procure or attempt to bring in prostitutes or women for the purpose of prostitution; those who have been, within one year from the date of the application for admission to the United States, deported as being under offers, solicitations, promises or agreements to perform labor or service of some kind therein; and also any person whose ticket or passage is paid for with the money of another, or who is assisted by others to come, unless it is affirmatively and satisfactorily shown that such person does not belong to one of the foregoing excluded classes; but this section shall not be held to prevent persons living in the United States from sending for a relative or friend who is not of the foregoing excluded classes: *Provided*, That nothing in this Act shall exclude persons convicted of an offense purely political, not involving moral turpitude: *And provided further*, That skilled labor may be imported, if labor of like kind unemployed can not be found in this country: *And provided further*, That the provisions of this law applicable to contract labor shall not be held to exclude professional actors, artists, lecturers, singers, ministers of any religious denomination, professors for colleges or seminaries, persons belonging to any recognized learned profession, or persons employed strictly as personal or domestic servants.

SEC. 3. That the importation into the United States of any woman or girl for the purposes of prostitution is hereby forbidden; and whoever shall import or attempt to import any woman or girl into the United States for the purposes of prostitution, or shall hold or attempt to hold, any woman or girl for such purposes in pursuance of such illegal importation shall be deemed guilty of a felony, and, on conviction thereof, shall be imprisoned not less than one nor more than five years and pay a fine not exceeding five thousand dollars.

SEC. 4. That it shall be unlawful for any person, company, partnership, or corporation, in any manner whatsoever, to prepay the transportation or in any way to assist or encourage the importation or

migration of any alien into the United States, in pursuance of any offer, solicitation, promise, or agreement, parole or special, expressed or implied, made previous to the importation of such alien to perform labor or service of any kind, skilled or unskilled, in the United States.

SEC. 5. That for every violation of any of the provisions of section four of this Act the person, partnership, company, or corporation violating the same, by knowingly assisting, encouraging, or soliciting the migration or importation of any alien to the United States to perform labor or service of any kind by reason of any offer, solicitation, promise, or agreement, express or implied, parole or special, to or with such alien shall forfeit and pay for every such offense the sum of one thousand dollars, which may be sued for and recovered by the United States, or by any person who shall first bring his action therefor in his own name and for his own benefit, including any such alien thus promised labor or service of any kind as aforesaid, as debts of like amount are now recovered in the courts of the United States; and separate suits may be brought for each alien thus promised labor or service of any kind as aforesaid. And it shall be the duty of the district attorney of the proper district to prosecute every such suit when brought by the United States.

SEC. 6. That it shall be unlawful and be deemed a violation of section four of this Act to assist or encourage the importation or migration of any alien by a promise of employment through advertisements printed and published in any foreign country; and any alien coming to this country in consequence of such an advertisement shall be treated as coming under a promise or agreement as contemplated in section two of this Act, and the penalties imposed by section five of this Act shall be applicable to such a case: *Provided*, That this section shall not apply to States or Territories, the District of Columbia, or places subject to the jurisdiction of the United States advertising the inducements they offer for immigration thereto, respectively.

SEC. 7. That no transportation company or owner or owners of vessels or others engaged in transporting aliens into the United States, shall, directly or through agents, either by writing, printing, or oral representations, solicit, invite, or encourage the immigration of any aliens into the United States except by ordinary commercial letters, circulars, advertisements, or oral representations, stating the sailings of their vessels and terms and facilities of transportation therein; and for a violation of this provision any such transportation company and any such owner or owners of vessels, and all others engaged in transporting aliens to the United States, and the agents by them employed, shall be subjected to the penalties imposed by section five of this Act.

SEC. 8. That any person, including the master, agent, owner, or consignee of any vessel, who shall bring into or land in the United States, by vessel or otherwise, or who shall attempt, by himself or through another, to bring into or land in the United States, by vessel or otherwise, any alien not duly admitted by an immigrant inspector, or not lawfully entitled to enter the United States, shall be deemed guilty of a misdemeanor, and shall, on conviction, be punished by a fine not exceeding one thousand dollars for each and every alien so landed or attempted to be landed, or by imprisonment for a term not less than three months nor more than two years, or by both such fine and imprisonment.

SEC. 9. That it shall be unlawful for any person, including any trans-

portation company other than railway lines entering the United States from foreign contiguous territory, or the owner, master, agent, or consignee of any vessel to bring to the United States any alien afflicted with a loathsome or with a dangerous contagious disease; and if it shall appear to the satisfaction of the Secretary of the Treasury [Secretary of Commerce and Labor] that any alien so brought to the United States was afflicted with such a disease at the time of foreign embarkation, and that the existence of such disease might have been detected by means of a competent medical examination at such time, such person or transportation company or the master, agent, owner, or consignee of any such vessel shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of one hundred dollars for each and every violation of the provisions of this section; and no vessel shall be granted clearance papers while any such fine imposed upon it remains unpaid, nor shall such fine be remitted.

SEC. 10. That the decision of the board of special inquiry, hereinafter provided for, based upon the certificate of the examining medical officer, shall be final as to the rejection of aliens afflicted with a loathsome or with a dangerous contagious disease, or with any mental or physical disability which would bring such aliens within any of the classes excluded from admission to the United States under section two of this Act.

SEC. 11. That upon the certificate of a medical officer of the United States Marine-Hospital Service to the effect that a rejected alien is helpless from sickness, physical disability, or infancy, if such alien is accompanied by another alien whose protection or guardianship is required by such rejected alien, the master, agent, owner, or consignee of the vessel in which such alien and accompanying alien are brought shall be required to return said alien and accompanying alien in the same manner as vessels are required to return other rejected aliens.

SEC. 12. That upon the arrival of any alien by water at any port within the United States it shall be the duty of the master or commanding officer of the steamer, sailing or other vessel, having said alien on board to deliver to the immigration officers at the port of arrival lists or manifests made at the time and place of embarkation of such alien on board such steamer or vessel, which shall, in answer to questions at the top of said lists, state as to each alien the full name, age, and sex; whether married or single; the calling or occupation; whether able to read or write; the nationality; the race; the last residence; the seaport for landing in the United States; the final destination, if any, beyond the port of landing; whether having a ticket through to such final destination; whether the alien has paid his own passage, or whether it has been paid by any other person or by any corporation, society, municipality, or government, and if so, by whom; whether in possession of fifty dollars, and if less, how much; whether going to join a relative or friend, and if so, what relative or friend and his name and complete address; whether ever before in the United States, and if so, when and where; whether ever in prison or almshouse or an institution or hospital for the care and treatment of the insane or supported by charity; whether a polygamist; whether an anarchist; whether coming by reason of any offer, solicitation, promise or agreement, expressed or implied, to perform labor in the United States, and what is the alien's condition of health mental and physical, and whether deformed or cripp'ed, and if so, for how long and from what cause.

SEC. 13. That all aliens arriving by water at the ports of the United States shall be listed in convenient groups, and no one list or manifest shall contain more than thirty names. To each alien or head of a family shall be given a ticket on which shall be written his name, a number or letter designating the list in which his name, and so forth, is contained, and his number on said list, for convenience of identification on arrival. Each list or manifest shall be verified by the signature and the oath or affirmation of the master or commanding officer or the first or second below him in command, taken before an immigration officer at the port of arrival, to the effect that he has caused the surgeon of said vessel sailing therewith to make a physical and oral examination of each of said aliens, and that from the report of said surgeon and from his own investigation he believes that no one of said aliens is an idiot, or insane person, or a pauper, or is likely to become a public charge, or is suffering from a loathsome or a dangerous contagious disease, or is a person who has been convicted of a felony or other crime or misdemeanor involving moral turpitude, or a polygamist, or an anarchist, or under promise or agreement, express or implied, to perform labor in the United States, or a prostitute, and that also, according to the best of his knowledge and belief, the information in said lists or manifests concerning each of said aliens named therein is correct and true in every respect.

SEC. 14. That the surgeon of said vessel sailing therewith shall also sign each of said lists or manifests and make oath or affirmation in like manner before an immigration officer at the port of arrival, stating his professional experience and qualifications as a physician and surgeon, and that he has made a personal examination of each of the said aliens named therein, and that the said list or manifest, according to the best of his knowledge and belief, is full, correct, and true in all particulars relative to the mental and physical condition of said aliens. If no surgeon sails with any vessel bringing aliens the mental and physical examinations and the verifications of the lists or manifests shall be made by some competent surgeon employed by the owners of the said vessel.

SEC. 15. That in the case of the failure of the master or commanding officer of any vessel to deliver to the said immigration officers lists or manifests of all aliens on board thereof as required in sections twelve, thirteen, and fourteen of this Act, he shall pay to the collector of customs at the port of arrival the sum of ten dollars for each alien concerning whom the above information is not contained in any list as aforesaid.

SEC. 16. That upon the receipt by the immigration officers at any port of arrival of the lists or manifests of aliens provided for in sections twelve, thirteen, and fourteen of this Act it shall be the duty of said officers to go or send competent assistants to the vessels to which said lists or manifests refer and there inspect all such aliens, or said immigration officers may order a temporary removal of such aliens for examination at a designated time and place, but such temporary removal shall not be considered a landing, nor shall it relieve the transportation lines, masters, agents, owners, or consignees of the vessel upon which such aliens are brought to any port of the United States from any of the obligations which, in case such aliens remain on board, would, under the provisions of this Act, bind the said transportation lines, masters, agents, owners, or consignees: *Provided*, That where

a suitable building is used for the detention and examination of aliens the immigration officials shall there take charge of such aliens, and the transportation companies, masters, agents, owners, and consignees of the vessels bringing such aliens shall be relieved of the responsibility for their detention thereafter until the return of such aliens to their care.

SEC. 17. That the physical and mental examination of all arriving aliens shall be made by medical officers of the United States Marine-Hospital Service, who shall have had at least two years' experience in the practice of their profession since receiving the degree of doctor of medicine and who shall certify for the information of the immigration officers and the boards of special inquiry hereinafter provided for, any and all physical and mental defects or diseases observed by said medical officers in any such alien, or, should medical officers of the United States Marine-Hospital Service be not available, civil surgeons of not less than four years' professional experience may be employed in such emergencies for the said service, upon such terms as may be prescribed by the Commissioner-General of Immigration, under the direction or with the approval of the Secretary of the Treasury [Secretary of Commerce and Labor]. The United States Public Health and Marine-Hospital Service shall be reimbursed by the Immigration Service for all expenditures incurred in carrying out the medical inspection of aliens under regulations of the Secretary of the Treasury [Secretary of Commerce and Labor].

SEC. 18. That it shall be the duty of the owners, officers and agents of any vessel bringing an alien to the United States to adopt due precautions to prevent the landing of any such alien from such vessel at any time or place other than that designated by the immigration officers, and any such owner, officer, agent, or person in charge of such vessel who shall land or permit to land any alien at any time or place other than that designated by the immigration officers, shall be deemed guilty of a misdemeanor, and shall on conviction be punished by a fine for each alien so permitted to land of not less than one hundred nor more than one thousand dollars, or by imprisonment for a term not exceeding one year, or by both such fine and imprisonment, and every such alien so landed shall be deemed to be unlawfully in the United States and shall be deported, as provided by law.

SEC. 19. That all aliens brought into this country in violation of law shall, if practicable, be immediately sent back to the countries whence they respectively came on the vessels bringing them. The cost of their maintenance while on land, as well as the expense of the return of such aliens, shall be borne by the owner or owners of the vessels on which they respectively came; and if any master, person in charge, agent, owner, or consignee of any such vessels shall refuse to receive back on board thereof, or of any other vessel owned by the same interest, such aliens, or shall neglect to detain them thereon, or shall refuse or neglect to return them to the foreign port from which they came, or to pay the cost of their maintenance while on land, such master, person in charge, agent, owner, or consignee shall be deemed guilty of a misdemeanor and shall, on conviction, be punished by a fine not less than three hundred dollars for each and every such offense; and no vessel shall have clearance from any port of the United States while any such fine is unpaid: *Provided*, That the Commissioner-General of Immigration, under the direction or with the approval of the Secretary of the Treasury [Secretary of Commerce and Labor], may suspend, upon conditions to be prescribed by the Commissioner-

General, the deportation of any alien found to have come under promise or agreement of labor or service of any kind if, in his judgment, the testimony of such alien is necessary on behalf of the United States Government in the prosecution of offenders against the provisions of sections four and five of this Act: *Provided*, That the cost of maintenance of any person so detained resulting from such suspension of deportation shall be paid from the "immigrant fund," but no alien certified, as provided in section seventeen of this Act, to be suffering with a loathsome or with a dangerous contagious disease other than one of a quarantinable nature, shall be permitted to land for medical treatment thereof in the hospitals of the United States.

SEC. 20. That any alien who shall come into the United States in violation of law, or who shall be found a public charge therein, from causes existing prior to landing, shall be deported as hereinafter provided to the country whence he came at any time within two years after arrival at the expense, including one-half of the cost of inland transportation to the port of deportation, of the person bringing such alien into the United States, or, if that can not be done, then at the expense of the immigrant fund referred to in section one of this Act.

SEC. 21. That in case the Secretary of the Treasury [Secretary of Commerce and Labor] shall be satisfied that an alien has been found in the United States in violation of this Act he shall cause such alien, within the period of three years after landing or entry therein, to be taken into custody and returned to the country whence he came, as provided in section twenty of this Act, or, if that can not be so done, at the expense of the immigrant fund provided for in section one of this Act; and neglect or refusal on the part of the masters, agents, owners, or consignees of vessels to comply with the order of the Secretary of the Treasury [Secretary of Commerce and Labor] to take on board, guard safely, and return to the country whence he came any alien ordered to be deported under the provisions of this section shall be punished by the imposition of the penalties prescribed in section nineteen of this Act.

SEC. 22. That the Commissioner-General of Immigration, in addition to such other duties as may by law be assigned to him, shall, under the direction of the Secretary of the Treasury [Secretary of Commerce and Labor] have charge of the administration of all laws relating to the immigration of aliens into the United States, and shall have the control, direction, and supervision of all officers, clerks, and employees appointed thereunder. He shall establish such rules and regulations, prescribe such forms of bonds, reports, entries, and other papers, and shall issue from time to time such instructions, not inconsistent with law, as he shall deem best calculated for carrying out the provisions of this Act and for protecting the United States and aliens migrating thereto from fraud and loss, and shall have authority to enter into contracts for the support and relief of such aliens as may fall into distress or need public aid; all under the direction or with the approval of the Secretary of the Treasury [Secretary of Commerce and Labor]. And it shall be the duty of the Commissioner-General of Immigration to detail officers of the immigration service from time to time as may be necessary, in his judgment, to secure information as to the number of aliens detained in the penal, reformatory, and charitable institutions (public and private) of the several States and Territories, the District of Columbia, and other territory of the United

States, and to inform the officers of such institutions of the provisions of law in relation to the deportation of aliens who have become public charges: *Provided*, That the Commissioner-General of Immigration may, with the approval of the Secretary of the Treasury [Secretary of Commerce and Labor], whenever in his judgment such action may be necessary to accomplish the purposes of this Act, detail immigration officers for temporary service in foreign countries.

SEC. 23. That the duties of the commissioners of immigration shall be of an administrative character, to be prescribed in detail by regulations prepared, under the direction or with the approval of the Secretary of the Treasury [Secretary of Commerce and Labor].

SEC. 24. That immigrant inspectors and other immigration officers, clerks, and employees shall hereafter be appointed, and their compensation fixed and raised or decreased from time to time, by the Secretary of the Treasury [Secretary of Commerce and Labor], upon the recommendation of the Commissioner-General of Immigration and in accordance with the provisions of the civil-service Act of January sixteenth, eighteen hundred and eighty-three: *Provided*, That nothing herein contained shall be construed to alter the mode of appointing commissioners of immigration at the several ports of the United States as provided by the sundry civil appropriation Act approved August eighteenth, eighteen hundred and ninety-four, or the official status of such commissioners heretofore appointed. Immigration officers shall have power to administer oaths and to take and consider testimony touching the right of any alien to enter the United States, and, where such action may be necessary, to make a written record of such testimony, and any person to whom such an oath has been administered under the provisions of this Act who shall knowingly or willfully give false testimony or swear to any false statement in any way affecting or in relation to the right of an alien to admission to the United States shall be deemed guilty of perjury and be punished as provided by section fifty-three hundred and ninety-two, United States Revised Statutes. The decision of any such officer, if favorable to the admission of any alien, shall be subject to challenge by any other immigration officer, and such challenge shall operate to take the alien whose right to land is so challenged before a board of special inquiry for its investigation. Every alien who may not appear to the examining immigrant inspector at the port of arrival to be clearly and beyond a doubt entitled to land shall be detained for examination in relation thereto by a board of special inquiry.

SEC. 25. That such boards of special inquiry shall be appointed by the commissioners of immigration at the various ports of arrival as may be necessary for the prompt determination of all cases of aliens detained at such ports under the provisions of law. Such boards shall consist of three members, who shall be selected from such of the immigrant officials in the service as the Commissioner-General of Immigration, with the approval of the Secretary of the Treasury [Secretary of Commerce and Labor], shall from time to time designate as qualified to serve on such boards: *Provided*, That at ports where there are fewer than three immigrant inspectors, the Secretary of the Treasury [Secretary of Commerce and Labor], upon recommendation of the Commissioner-General of Immigration, may designate other United States officials for service on such boards of special inquiry. Such boards shall have authority to determine whether an alien who has

been duly held shall be allowed to land or be deported. All hearings before boards shall be separate and apart from the public, but the said boards shall keep complete permanent records of their proceedings and of all such testimony as may be produced before them; and the decision of any two members of a board shall prevail and be final, but either the alien or any dissenting member of said board may appeal, through the commissioner of immigration at the port of arrival and the Commissioner-General of Immigration, to the Secretary of the Treasury [Secretary of Commerce and Labor], whose decision shall then be final; and the taking of such appeal shall operate to stay any action in regard to the final disposal of the alien whose case is so appealed until the receipt by the commissioner of immigration at the port of arrival of such decision.

SEC. 26. That no bond or guaranty, written or oral, that an alien shall not become a public charge shall be received from any person, company, corporation, charitable or benevolent society or association unless authority to receive the same shall in each special case be given by the Commissioner-General of Immigration, with the written approval of the Secretary of the Treasury [Secretary of Commerce and Labor].

SEC. 27. That no suit or proceeding for a violation of the provisions of this Act shall be settled, compromised, or discontinued without the consent of the court in which it is pending, entered of record, with the reasons therefor.

SEC. 28. That nothing contained in this Act shall be construed to affect any prosecution or other proceeding, criminal or civil, begun under any existing Act or any Acts hereby amended, but such prosecutions or other proceedings, criminal or civil, shall proceed as if this Act had not been passed.

SEC. 29. That the circuit and district courts of the United States are hereby invested with full and concurrent jurisdiction of all causes, civil and criminal, arising under any of the provisions of this Act.

SEC. 30. That after the first day of January, nineteen hundred and three, all exclusive privileges of exchanging money, transporting passengers or baggage, or keeping eating houses, and all other like privileges in connection with any United States immigration station, shall be disposed of after public competition, subject to such conditions and limitations as the Commissioner-General of Immigration, under the direction or with the approval of the Secretary of the Treasury [Secretary of Commerce and Labor], may prescribe: *Provided*, That no intoxicating liquors shall be sold in any such immigrant station; that all receipts accruing from the disposal of such exclusive privileges as herein provided shall be paid into the United States Treasury to the credit of the immigrant fund provided for in section one of this Act.

SEC. 31. That for the preservation of the peace, and in order that arrests may be made for crimes under the laws of the States and Territories of the United States where the various immigrant stations are located, the officers in charge of such stations, as occasion may require, shall admit therein the proper State and municipal officers charged with the enforcement of such laws, and for the purposes of this section the jurisdiction of such officers and of the local courts shall extend over such stations.

SEC. 32. That the Commissioner-General of Immigration, under the direction or with the approval of the Secretary of the Treasury [Secretary of Commerce and Labor], shall prescribe rules for the entry and

inspection of aliens along the borders of Canada and Mexico, so as not to unnecessarily delay, impede, or annoy passengers in ordinary travel between the United States and said countries, and shall have power to enter into contracts with foreign transportation lines for the same purpose.

SEC. 33. That for the purposes of this Act the words "United States" as used in the title as well as in the various sections of this Act shall be construed to mean the United States and any waters, territory or other place now subject to the jurisdiction thereof.

SEC. 34. That no intoxicating liquors of any character shall be sold within the limits of the Capitol building of the United States.

SEC. 35. That the deportation of aliens arrested within the United States after entry and found to be illegally therein, provided for in this act, shall be to the trans-Atlantic or trans-Pacific ports from which said aliens embarked for the United States; or, if such embarkation was for foreign contiguous territory, to the foreign port at which said aliens embarked for such territory.

SEC. 36. That all Acts and parts of Acts inconsistent with this Act are hereby repealed: *Provided*, That this Act shall not be construed to repeal, alter, or amend existing laws relating to the immigration, or exclusion of Chinese persons or persons of Chinese descent.

SEC. 37. That whenever an alien shall have taken up his permanent residence in this country, and shall have filed his preliminary declaration to become a citizen, and thereafter shall send for his wife or minor children to join him, if said wife, or either of said children, shall be found to be affected with any contagious disorder, and if it is proved that said disorder was contracted on board the ship in which they came, and is so certified by the examining surgeon at the port of arrival, such wife or children shall be held, under such regulations as the Secretary of the Treasury [Secretary of Commerce and Labor] shall prescribe, until it shall be determined whether the disorder will be easily curable, or whether they can be permitted to land without danger to other persons; and they shall not be deported until such facts have been ascertained.

SEC. 38. That no person who disbelieves in or who is opposed to all organized government, or who is a member of or affiliated with any organization entertaining and teaching such disbelief in or opposition to all organized government, or who advocates or teaches the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character, shall be permitted to enter the United States or any Territory or place subject to the jurisdiction thereof. This section shall be enforced by the Secretary of the Treasury [Secretary of Commerce and Labor] under such rules and regulations as he shall prescribe.

That any person who knowingly aids or assists any such person to enter the United States or any Territory or place subject to the jurisdiction thereof, or who connives or conspires with any person or persons to allow, procure, or permit any such person to enter therein, except pursuant to such rules and regulations made by the Secretary of the Treasury [Secretary of Commerce and Labor], shall be fined not more than five thousand dollars, or imprisoned for not less than one nor more than five years, or both.

SEC. 39. That no person who disbelieves in or who is opposed to all organized government, or who is a member of or affiliated with any organization entertaining and teaching such disbelief in or opposition to all organized government, or who advocates or teaches the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character, or who has violated any of the provisions of this Act, shall be naturalized or be made a citizen of the United States. All courts and tribunals and all judges and officers thereof having jurisdiction of naturalization proceedings or duties to perform in regard thereto shall, on the final application for naturalization, make careful inquiry into such matters, and before issuing the final order or certificate of naturalization cause to be entered of record the affidavit of the applicant and of his witnesses so far as applicable, reciting and affirming the truth of every material fact requisite for naturalization. All final orders and certificates of naturalization hereafter made shall show on their face specifically that said affidavits were duly made and recorded, and all orders and certificates that fail to show such facts shall be null and void.

That any person who purposely procures naturalization in violation of the provisions of this section shall be fined not more than five thousand dollars, or shall be imprisoned not less than one nor more than ten years, or both, and the court in which such conviction is had shall thereupon adjudge and declare the order or decree and all certificates admitting such person to citizenship null and void. Jurisdiction is hereby conferred on the courts having jurisdiction of the trial of such offense to make such adjudication.

That any person who knowingly aids, advises, or encourages any such person to apply for or to secure naturalization or to file the preliminary papers declaring an intent to become a citizen of the United States, or who in any naturalization proceeding knowingly procures or gives false testimony as to any material fact, or who knowingly makes an affidavit false as to any material fact required to be proved in such proceeding, shall be fined not more than five thousand dollars, or imprisoned not less than one nor more than ten years, or both.

The foregoing provisions concerning naturalization shall not be enforced until ninety days after the approval hereof.

Approved, March 3, 1903.

AN ACT to establish the Department of Commerce and Labor.

* * * * * * *

SEC. 2. That there shall be in said Department an Assistant Secretary of Commerce and Labor, to be appointed by the President, who shall receive a salary of five thousand dollars a year. He shall perform such duties as shall be prescribed by the Secretary or required by law. There shall also be one chief clerk and a disbursing clerk and such other clerical assistants as may from time to time be authorized by Congress; and the Auditor for the State and other Departments shall receive and examine all accounts of salaries and incidental expenses of the office of the Secretary of Commerce and Labor, and of all bureaus and offices under his direction, all accounts relating to the Light-House Board, Steamboat-Inspection Service, Immigration, Navigation,

kan fur-seal fisheries, the National Bureau of Standards, Coast Geodetic Survey, Census, Department of Labor, Fish Commission to all other business within the jurisdiction of the Department of merce and Labor, and certify the balances arising thereon to the sion of Bookkeeping and Warrants and send forthwith a copy of certificate to the Secretary of Commerce and Labor.

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EC. 4. That the following-named offices, bureaus, divisions, and ches of the public service, now and heretofore under the juris- ion of the Department of the Treasury, and all that pertains to the e, known as the Light-House Board, the Light-House Establish- t, the Steamboat-Inspection Service, the Bureau of Navigation, United States Shipping Commissioners, the National Bureau of dards, the Coast and Geodetic Survey, the Commissioner-General Immigration, the commissioners of immigration, the Bureau of nigration, the immigration service at large, and the Bureau of Sta- cs, be, and the same hereby are, transferred from the Department he Treasury to the Department of Commerce and Labor, and the e shall hereafter remain under the jurisdiction and supervision of last-named Department; * * *.

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EC. 7. That the jurisdiction, supervision and control now pos- ed and exercised by the Department of the Treasury over the fur- , salmon and other fisheries of Alaska and over the immigration aliens into the United States, its waters, territories and any place ject to the jurisdiction thereof, are hereby transferred and vested he Department of Commerce and Labor: *Provided*, That nothing tained in this Act shall be construed to alter the method of collect- and accounting for the head-tax prescribed by section one of the entitled "An Act to regulate immigration," approved August d, eighteen hundred and eighty-two. That the authority, power jurisdiction now possessed and exercised by the Secretary of the asury by virtue of any law in relation to the exclusion from and residence within the United States, its territories and the District Columbia, of Chinese and persons of Chinese descent, are hereby nsferred to and conferred upon the Secretary of Commerce and or, and the authority, power and jurisdiction in relation thereto r vested by law or treaty in the collectors of customs and the col- ors of internal revenue, are hereby conferred upon and vested such officers under the control of the Commissioner-General of migration, as the Secretary of Commerce and Labor may desig- e therefor.

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EC. 13. That this Act shall take effect and be in force from and er its passage: *Provided, however*, That the provisions of this Act er than those of section twelve in relation to the transfer of any sting office, bureau, division, officer or other branch of the public vice or authority now conferred thereon, to the Department of mmerce and Labor shall take effect and be in force on the first day July, nineteen hundred and three, and not before.

Approved, February 14, 1903.

ACT OF MARCH 22, 1904.

AN ACT to extend the exemption from head tax to citizens of Newfoundland entering the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section one, chapter ten hundred and twelve, of the Statutes at Large of the United States of America (Fifty-seventh Congress, second session), is hereby amended by inserting in line four, after the word "Canada," the word "Newfoundland," so as to read as follows:

"That there shall be levied, collected, and paid a duty of two dollars for each and every passenger not a citizen of the United States, or of the Dominion of Canada, Newfoundland, the Republic of Cuba, or of the Republic of Mexico, who shall come by steam, sail, or other vessel from any foreign port to any port within the United States, or by any railway or any other mode of transportation from foreign contiguous territory to the United States. The said duty shall be paid to the collector of customs of the port or customs district to which said alien passenger shall come, or, if there be no collector at such port or district, then to the collector nearest thereto by the master, agent, owner, or consignee of every such vessel or transportation line. The money thus collected shall be paid into the United States Treasury and shall constitute a permanent appropriation to be called the 'immigrant fund,' to be used under the direction of the Secretary of the Treasury [Secretary of Commerce and Labor] to defray the expense of regulating the immigration of aliens into the United States under this Act, including the cost of reports of decisions of the Federal courts, and digests thereof, for the use of the Commissioner-General of Immigration, and the salaries and expenses of all officers, clerks, and employees appointed for the purpose of enforcing the provisions of this Act. The duty imposed by this section shall be a lien upon the vessels which shall bring such aliens to ports of the United States, and shall be a debt in favor of the United States against the owner or owners of such vessels, and the payment of such duty may be enforced by any legal or equitable remedy. The head tax herein provided for shall not be levied upon aliens in transit through the United States nor upon aliens who have once been admitted into the United States and have paid the head tax who later shall go in transit from one part of the United States to another through foreign contiguous territory: *Provided*, That the Commissioner-General of Immigration, under the direction or with the approval of the Secretary of the Treasury [Secretary of Commerce and Labor], by agreement with transportation lines, as provided in section thirty-two of this Act, may arrange in some other manner for the payment of the duty imposed by this section upon aliens seeking admission overland, either as to all or as to any such aliens."

Approved, March 22, 1904 (33 Stat., part 1, page 144).

JOINT RESOLUTION amending an Act entitled "An Act to regulate the immigration of aliens into the United States," approved March third, nineteen hundred and three.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the words "Secretary of the Treasury" wherever used in the Act entitled "An Act to regulate the immigration of aliens into the United States," approved March third, nineteen hundred and three, or in amendments thereto, or in prior acts in relation to alien immigration, be stricken out, and the words "Secretary of Commerce and Labor" inserted in lieu thereof.

Approved, April 28, 1904 (33 Stat., part 1, p. 591).

AN ACT making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and six, and for other purposes, approved February 3, 1905, under the head "Bureau of Immigration," provides as follows:

Provided, That the Commissioner-General of Immigration, with the approval of the Secretary of Commerce and Labor, shall have power to refund head tax heretofore and hereafter collected under section one of the immigration Act approved March third, nineteen hundred and three, upon presentation of evidence showing conclusively that such collection was erroneously made.

AN ACT to amend an Act approved July first, nineteen hundred and two, entitled "An Act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes," and to amend an Act approved March eighth, nineteen hundred and two, entitled "An Act temporarily to provide revenue for the Philippine Islands, and for other purposes," and to amend an Act approved March second, nineteen hundred and three, entitled "An Act to establish a standard of value and to provide for a coinage system in the Philippine Islands," and to provide for the more efficient administration of civil government in the Philippine Islands, and for other purposes.

* * * * * * * *

SEC. 6. That the immigration laws of the United States in force in the Philippine Islands shall be administered by the officers of the general government thereof designated by appropriate legislation of said government, and all moneys collected under said laws as duty or head tax on alien immigrants coming into said islands shall not be covered into the general fund of the Treasury of the United States, but shall be paid into the treasury of said islands to be used and expended for the government and benefit of said islands.

* * * * * * * *

Approved, February 6, 1905.

AN ACT making appropriations to supply deficiencies in the appropriations for the fiscal year ending June thirtieth, nineteen hundred and five, and for prior years, and for other purposes, approved March third, nineteen hundred and five, under the head "Department of Commerce and Labor," provides as follows:

Provided, That the necessary expenses incident to the detention of aliens ordered deported, whose attendance as witnesses is required in behalf of the United States in prosecutions arising under the immigration laws, may be paid from the permanent appropriation for "Expenses of regulating immigration."

(Supplementing section 19, Act approved March 3, 1903.)

AN ACT making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and six, and for other purposes, approved March third, nineteen hundred and five, provides as follows:

Provided, That the annual subscriptions for publications for use in the immigration service at large may be paid in advance.

Supreme Court of the United States.

No. 237.—October Term, 1905.

Peter Pearson and Enoch Pearson, Petitioners, vs. William Williams, United States Commissioner of Immigration at the Port of New York.	On Writ of Certiorari to the United States Circuit Court of Appeals for the Second Circuit.

[May 14, 1906.]

Mr. Justice Holmes delivered the opinion of the Court.

This case comes here by certiorari. 198 U. S. 585. It is a writ of *habeas corpus*, addressed to the Secretary of Commerce and Labor and to the Commissioner of Immigration of the Port of New York, on which the Circuit Court made an order discharging the petitioners, but the Circuit Court of Appeals reversed the order by a divided Court. 136 Fed. Rep. 734. The return to the writ discloses that the petitioners are British aliens, that they arrived in New York on February 1, 1904, were detained for examination by a board of special inquiry, were examined and were allowed to land. The return further shows that afterwards, in March, they were arrested by order of the said Secretary and after another hearing before a board of special inquiry were ordered to be returned to England, as being in this country in violation of the acts of Congress touching the matter. The only question is whether the Secretary had the right to direct the second hearing and to make the order of deportation under § 21 of the Act of March 3, 1903, c. 1012, when there had been an inquiry at the time of the petitioners' landing and a decision in their favor under § 25. 32 Stat. 1218, 1220. It is proper to add, as giving more dramatic force to the contention of the petitioners, that the proceedings upon both inquiries are incorporated into the return by reference and that they appear to have been before the same persons, upon the same question, namely, whether the petitioners came to this country under contract to perform labor contrary to the statutes of the United States. Act of February 26, 1885, c. 164, 23 Stat. 332. February 23, 1887, c. 220, 24 Stat. 414. March 3, 1891, c. 551, 26 Stat. 1084. March 3, 1903, c. 1012, 32 Stat. 1213. See also Acts of October 19, 1888, c. 1210, 25 Stat. 566; March 3, 1893, c. 206, 27 Stat. 569; August 18, 1894, c. 301, 28 Stat. 390.

It is provided by § 24 of the above mentioned Act of 1903 that "every alien who may not appear to the examining immigrant inspector at the

port of arrival to be clearly and beyond a doubt entitled to land shall be detained for examination in relation thereto by a board of special inquiry." The following section, § 25, directs the appointment of such boards as shall be necessary for the prompt determination of cases of aliens detained, to consist of three members to be selected from the immigrant officials in the service. "Such boards shall have authority to determine whether an alien who has been duly held shall be allowed to land or be deported." They are to keep records, "and the decision of any two members of a board shall prevail and be final," subject to appeal by the alien or a dissenting member "through the Commissioner of Immigration at the port of arrival and the Commissioner General of Immigration, to the Secretary of the Treasury," (now the Secretary of Commerce and Labor, Act of February 14, 1903, c. 552, §§ 4, 7, 10, 32 Stat 826, 828, 829,) whose decision shall then be final." In this case the first decision of the board was unanimous, and the petitioners contend that it was final by the very words of the Act.

On the other hand it is provided by § 21 "That in case the Secretary of the Treasury shall be satisfied that an alien has been found in the United States in violation of this Act he shall cause such alien, within the period of three years after landing or entry therein, to be taken into custody and returned to the country whence he came," with details as to the method. It is insisted by the Government that this power is not qualified or cut down by § 25. Of course if the Government is right on the construction of the Act, there is no question of the validity of the provision. By that construction the finality given to the decision of the board is only a finality consistent with and subject to § 21, as, conversely, by that contended for on the other side, the power of the Secretary is subject to § 25. On the former view the United States admits aliens conditionally, and preserves that condition notwithstanding a preliminary decision in their favor by a board which it provides. The authority of Congress to impose such conditions hardly was disputed and is not open to doubt. *Lem Moon Sing* v. *United States*, 158 U. S. 538, 543. *Ekiu* v. *United States*, 142 U. S. 651. *Japanese Emigrant Case*, 189 U. S. 86, 97, 99. The only question is what it has done.

Some meaning must be found for § 21, no less than for § 25. For the petitioners it is said that § 21 is satisfied by confining the power of the Secretary to cases where a board of special inquiry has not acted. But this would limit his action to a very narrow scope, since the Act provides for such a board in every case where the alien does not appear to the inspector "to be clearly and beyond a doubt entitled to land." § 24, quoted above. Again it would defeat in great measure the policy of the original Act of October 19, 1888, c. 1210, § 1, 25 Stat. 566, (see also Act of March 3, 1891, c. 551, § 11, 26 Stat. 1086,) which obviously was to give a chance

for fuller investigation than is possible at the moment of landing, when any inquiry necessarily must be of a very summary sort. See *Japanese Immigrant Case*, 189 U. S. 86, 99. Yet this policy is emphasized and reinforced by changing the period of probation from one year to three, while in other respects § 21 follows almost literally the words of the earlier act. The petitioners' construction also would empty the requirement in § 20 that "any alien who shall come into the United States in violation of law" shall be deported, of the greater part of its natural meaning, since it would limit it to such aliens only as appeared to the inspector to be entitled beyond a doubt to land and for that reason escaped a board of special inquiry before they came in.

Turning now to § 25, that section seems to us to disclose additional reasons on the Government's side. The board is an instrument of the Executive power, not a court. It is made up, as we have mentioned, of the immigrant officials in the service, subordinates of the Commissioner of Immigration, whose duties are declared to be administrative by § 23. Decisions of a similar type long have been recognized as decisions of the Executive department, and cannot constitute *res judicata* in a technical sense. *Ekiu* v. *United States*, 142 U. S. 651. *Fong Yue Ting* v. *United States*, 149 U. S. 698, 713. *Lem Moon Sing* v. *United States*, 158 U. S. 538. *Fok Young Yo* v. *United States*, 185 U. S. 296, 305. *Japanese Immigrant Case*, 189 U. S. 86, 98. *United States* v. *Ju Toy*, 198 U. S. 253, 263. The decisions necessarily are made, as we have said, in a summary way, in order to reach the "prompt determination" declared by § 25 to be an object. The board has no power to compel witnesses to attend, but, as was said by the Circuit Court of Appeals, must decide upon such evidence as is at hand or is readily accessible. These are considerations against the likelihood that Congress meant such decisions to be binding upon the Secretary of Commerce and Labor, the superior officer of the members of the board. On the other hand there is a plain and sufficient meaning for the words making their decision final—and that is that it shall be final where it is most likely to be questioned, in the Courts.

It is true that the decision hardly will be questioned in the Courts except when it is against the right to land. In the earlier acts the decision of an inspector was made final, in terms, only "when adverse to such right." Act of March 3, 1891, c. 551, § 8, 26 Stat. 1085. Since then, it is said, Congress has gone on increasing the importance of the decision, first, by providing a board in cases of doubt, with a limited appeal, Act of March 3, 1893, c. 206, § 5, 27 Stat. 570, and then by enlarging the right of appeal and extending the finality of the ultimate decision to every case, by the present § 25. But this appears to us to strain and even pervert the conclusions to be drawn from the change. There can be no doubt, we think, that the provision of the act of 1891 referred to the Courts. The adverse

decision of an inspector would be followed by deportation unless that should be stopped by *habeas corpus*. To prevent a retrial in that event the provision was passed. It is not likely that the purpose was changed when the words "when adverse to such right" were dropped. More probably they were omitted simply as superfluous. If the question ever could arise in the Courts, except when the alien was ordered to be deported, there was no reason why the decision to admit should not be given an effect equal to that of a decision to exclude. If the question could arise only in the former case there was no need of the omitted clause. But the matter which was before the mind of Congress presumably was that which had been before it on the former occasion, which had been the subject of judicial discussion, *Lem Moon Sing* v. *United States*, 158 U. S. 538, *Fok Young Yo* v. *United States*, 185 U. S. 296, 304, 305, and which was not quite disposed of until the last term of this Court. *United States* v. *Ju Toy*, 198 U. S. 253.

There was a suggestion at the argument that the decision of the Secretary was not warranted by the evidence. But if, for the purposes of decision, we assume that question to be open, we do not think that it needs discussion. We are of opinion that the decision of the Circuit Court of Appeals was right.

Judgment affirmed.

Mr. Justice HARLAN, Mr. Justice BREWER and Mr. Justice PECKHAM dissent.

True copy.

Test:

Clerk Supreme Court, U. S.